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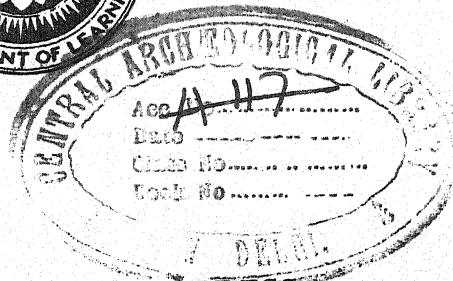
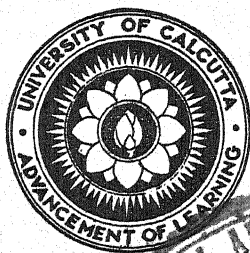
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LANGUAGE AND MEANING

A CRITICAL SURVEY OF CONTEMPORARY PSYCHOLOGY AND PHILOSOPHY OF LANGUAGE AND A DEFENCE OF THE SOCIAL-AFFECTIVE CONCEPT OF MEANING

By

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Introduction

Thinkers in all times have been more or less interested in the study of language in its different aspects. Following a spell of strenuous philological work towards the end of the 19th century philosophers appeared to have reached a state of complacency believing that the major problems in the study of language had been solved. Soon after, however, three different forces operating in different fields brought about disillusion. The work of naturalists (including pragmatists and behaviourists), logical positivists and Kultur-idealists pointed to unexplored regions in the recent past and opened new paths of approach. As a consequence philosophers have been forced to take up again the problems of language in right earnest. This time they have found trusted allies in psychologists and psycho-analysts whose researches are proving valuable aids to the proper understanding of the form and import of language.

Various problems connected with language are being pursued so assiduously at the present moment that a survey of the published books and articles in different languages will appal any

casual enquirer. Some nine years back a reviewer prophesied that language would bid fair to become a topic of first-rate importance and would be the "fighting zone" of philosophy. How literally right he was, would be evident from the fact that within a decade there have been published over two hundred books and articles discussing purely psychological and philosophical problems, besides nearly three hundred others dealing with researches in experimental phonetics, speech-pathology and language-learning. As to the second part of the prophecy it has to be acknowledged that fierce polemics are being carried now between those who depreciate the power of language to express *reality* and those who stand for high evaluation of language and make it one with *reality*.

In the following pages attempt has been made to survey the contemporary psychological and philosophical studies in language and to examine the relation of language to meaning. The first three parts of the present essay discuss the various problems in which the students of language are interested, mention the outstanding researches in the domain of psychology and present in short outline the points of view of different philosophical schools together with a critique of the contending views of language. In the last part the conception of a type of objective *meaning* of social-affective origin has been defended. Attempt has also been made to indicate briefly that the extensional form of language as advocated by the logical positivists is not altogether incompatible with the view of an objective realm of meanings. In an Appendix to this essay the question of national language, *i.e.*, language as depicting national character, has been considered and a few remarks have been made on the alleged inadequacy of language to express thought.

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I

THE PROBLEMS OF LANGUAGE

Science and Philosophy of Language

A distinction is made between the science of language which studies language in its causal and genetic aspects and the philosophy of language which is concerned with the relation of language to knowledge and reality. These two different ways of dealing with the same subject form two relatively distinct disciplines. Theoretically speaking, studies of the science and the philosophy of language may be pursued independently; but here, as also in every other field of study, the philosophical outlook influences scientific investigation in diverse ways and in its turn is influenced by the results of new scientific researches.

On the question of origin, status and significance of language the present-day philosophers are divided into two main groups: (I) We have the naturalistic philosophy of language upheld by De Laguna (20), B. Russell (50), Watson (68), Ogden and Richards (38) and all those who stand for pragmatism, behaviourism or positivism. (II) We also have the idealistic philosophy of language advocated by Spranger (59), Cassirer (18), Vossler (66) and others affiliated to the school of Kultur-philosophy.

Naturalistic Philosophy of Language

The first group of philosophers depreciate the traditional conception of language. In keeping with the naturalistic conception of mind to which they subscribe they support in the main the behaviouristic conception of speech. Two other considerations weigh with them in so thinking: (a) Traditional language is inadequate to represent concepts of modern science, of modern physics in particular. (b) Metaphysical puzzles arise because language with its subject-predicate logic assumes the "quasi-

syntactical " form and becomes a prey to verbalism. They thus arrive at the conclusion that language is a purely naturalistic product created by environmental pressure. According to them language is a mere instance of conditioned response in which words act as substitutes for situations and bring about responses originally made to the situations. The basis and structure of language are studied in the light of practical and social usefulness. In studying the problems of language the point always to be borne in mind is what purpose language serves in human life. But such a pragmatic view presents difficulty as to the possibility of valid language. For, it may be asked, how can man acquire valid knowledge of an independent order if he experience it only as a correlate of his own behaviour? The pragmatist goes round the question by taking his stand on the ground that " man like other animals is primarily and fundamentally concerned with things only in so far as they are potential or actual sources of advantage to him " (20).

Idealistic Philosophy of Language

The second group of philosophers, on the other hand, highly estimate language rather than depreciate it. They recognise an objective realm of meanings and values and consider language as " ausdrucks-system " of meaningful signs and symbols. The problems of language are studied in the light of this general principle. Transcendental validity is ascribed to meanings conveyed by words and sentences. The naturalistic way of thinking argues for the dissolution of traditional language. The idealists say that is not a move in the right direction. Language and the logic bound up with it are not to be abandoned. What is necessary is their development. " The goal of philosophy," Weber quotes Cassirer, " does not consist in going back of these (linguistic) symbols to some more primitive reality but in developing them and understanding them in their fundamental principles " (64). Representatives of

the Kultur-philosophy hold that cultural and spiritual values are symbolised by language. They believe in the adequacy of language to give expression to thought. Linguistic expression is indispensable for the realization of intellectual thoughts.

Thus we find that on the question of relation between language and knowledge the first group adopts pragmatic standpoint while the second group takes recourse to transcendentalism. And on the question of relation between language and reality one view is that language is something external to reality while the other view regards it as the very condition of there being any reality at all.

Physical Study of Language

The scientific study of language dealing with its physical and physiological sides has received considerable attention of late. Formerly the physical side used to be overlooked but modern thinkers take proper cognisance of it. In the use of language words form the first plank, and words, whether written or spoken, are physical occurrences. "A spoken word is a process in the physical world having an essential time-order, a written word is a series of pieces of matter having an essential space-order" (50). Speech consists in uttering different types of sounds, called words, in definite conventional orders, called sentences. Coherent speech is conformity with this order and incoherent speech is its violation. In the last analysis language, written or spoken, is nothing but bodily movements, more specially movements in the larynx and in the mouth. The difference between the "particular bodily movement called speech and other bodily movements is that the former can be executed very quickly and with very little muscular effort. Hence is its relative importance as a means of communication with the outside world.

Study of Phonetics

Experimental phonetics now form an important branch of the study of language. Question of the origin of language

engaged the attention of the 19th century philologists. A group of them believed that all languages have simple roots. The 'bow-wow' theory (*i.e.*, the words were original copies of sounds), the 'pooh-pooh' theory (*i.e.*, the words were original interjections), and the 'ding-dong' theory (*i.e.*, things ring when struck) are the products of this line of thought. Another group strove to show that languages were rich in roots which were neither phonetically nor ideationally simple. A definite conclusion in favour of either of these views seems to be out of reach at present. The attention of the investigators has now been deflected towards experimental phonetics. Study of phonetics was first taken up with the hope of gaining some insight into the origin of language. The difficulty of the task, however, was soon realized and study was mainly confined to the empirical problems in phonetics. In the recent past study of voice had been diligently pursued in well-equipped phonetic laboratories and numerous articles embodying the results of such studies had been published. Not merely speech sounds but every manifestation of the voice from every possible angle has been envisaged. Works of Scripture (56), G. O. Russell (53), Abas (1), Liddell (31), Paget (40, 41, 42), to name a few, have thrown new light on the physical characteristics of voice.

Meaning of Words

Psychologists have been greatly concerned to know how words can acquire meanings. An important contribution toward an understanding of the question how meaning is acquired has come from the camp of the behaviourists. The principle of conditioned reflex has been used with great advantage in explaining the meaning of words. Meanings are not something inhering in words by virtue of their intrinsic quality and transcending individual experience. They are acquired by the growing individual in the course of his learning to respond to his environment. If the word 'bottle' be uttered every time

the bottle is given to the child, he soon reacts to the word 'bottle' exactly in the way he would react to the actual bottle. When this occurs, it is said that the child has learnt to understand the meaning of the word 'bottle'.

Thought and Language

The problem of the relation of thought to language has given rise to a long-standing controversy. Those who affirm that thought is possible without language, and as a matter of fact is prior to it, argue that thought for its expression requires symbols; and as language is a system of symbols developed later in the history of mind it is quite possible that in early days thought used systems of symbols other than language. On the other hand those who deny the possibility of thought in absence of language believe that thought and language have grown together. They are "the two aspects of the same phase of mental development." Had there been no language there could have been no thinking. These two contrary theses may be somewhat reconciled by supposing that thinking of the period prior to the growth of verbal activity was chiefly guided by what has been called "organic intelligence" and was of different order from our present-day thinking. Lorimer (32) thinks, "thought as implicit tensional behaviour and mind as its immediate context are prior to linguistic activity. But thought is recognised and mind is reconstituted through the instrumentality of linguistic processes into human reason and logical structures."

Language as a Social Fact

A section of writers led by Vendryes (65) believes that language is "a social fact *par excellence*." It has grown out of social contact. When mental progress reached a certain point in the scale of evolution, people formed a social group and

language was invented. "Two individuals could have developed a language only because they were already prepared to do so." That the essential condition for invention of language lay in co-operative thinking had been earlier emphasised by Stout (61) also. For such co-operative thinking minds of individuals must attain a stage of perfection.

Thinking as Muscular Activity

Some two decades ago Watson (68) created a stir amongst the psychologists by declaring that thought was a kind of complex muscular activity, the muscles of the larynx and of oral cavity being chiefly involved. The statement at once attracted widespread attention. A band of British psychologists entered into a controversy with Watson regarding the question whether thinking was merely the action of language mechanism. Several American psychologists later joined the controversy and for a time the writings of the opponents and the supporters of Watsonian position flooded the pages of the different journals of psychology (6, 26, 36, 39, 48, 62).

National Character

The popular view that language expresses national character has received the support of certain historians and psychologists. The latter have discerned characteristic peculiarities in the minds of Oriental and Occidental or primitive and modern people from their respective choice of words and construction of sentences. This has led some to say that syntax is an index of national character. It is doubtful, however, if there be any national language whose formal features are entirely national.

Influence of the Unconscious

In view of the overwhelming evidence adduced by modern psychology in favour of a dynamic conception of mind it is but

natural to expect that the influence of the unconscious, the working of the ego or the satisfaction of the libido will be discernible in the expressed language of human beings. Save for Freud's sporadic remarks on the origin of certain words there is almost complete paucity of work in this line. Only recently G. Bose with two collaborators (12) has taken up the enquiry and being both a psychologist and a psycho-analyst has been able to do fuller justice to the problem. In a preliminary note of his study he has only scratched the surface of the problem indicating the unfathomed depths yet to be explored.

II

PSYCHOLOGICAL STUDIES IN LANGUAGE

The keen interest evinced by contemporary philologists, anthropologists, sociologists, logicians and psychologists has prompted McGranahan (35) to remark that there has been a growing *language-consciousness* in relation to present-day scientific and philosophical work. Indeed in every field is to be found a tendency to examine carefully the possibilities and the pitfalls of linguistic symbolism ; and there is scarcely a work in psychology or philosophy in recent times that does not take up in some section of it the question of the nature and validity of language.

Theories of Singular or Plural Function

Theoretical interest has chiefly centred round the question as to what purpose language serves in life. Plato (47) regarded language as a set of signs used as "an instrument to name things and thereby to convey information from one person to another." Wundt (73) considered that the main function of language was to express mental contents. For Croce (19) also language was mainly an expression. The communicative aspect of language has been emphasised by Pillsbury and Meador (46). The chief

function of language as “evoking psychic phenomenon in other persons” is the suggestion made by certain thinkers. DeLaguna (20) has conceived language as essentially a tool for co-ordination and co-operation. Some modern thinkers are not content with ascribing a single function to language. Amongst those who advocate plurality of functions special mention may be made of Paulhan (44) who names two functions : signification and suggestion ; of Bühler (14) who is in favour of three functions : representation, expression and appeal ; of Stern (60) who stands for four functions : symbolization, expression, communication and effective function ; and of Ogden and Richards (39) who state not less than five functions : symbolization, expression of attitude toward listner, expression of attitude toward referent, promotion of effects intended, and support of reference.

Following the dictates of commonsense and incidentally approaching the view of Bühler language has been invested with triple functions. A speech phenomenon may be considered in three relations : (a) in relation to the person producing it, (b) in relation to the person or persons hearing it, and (c) in relation to the objective fact or situation that is represented through it. These three relations have been called *expression, evocation and representation*. They are similar to Bühler’s three functions, Ausdruck, Appel and Darstellung.

Representation as a Symbolic Relation

Representation is not a causal relation but a symbolic one established by social convention. It is the relation between speech signs in usage and the objects or situations for which they stand as substitutes. A common answer to the question how language represents, is that it does so through *similarity* in the manner a picture represents an object. This analogy cannot, however, hold in all fronts as the pictorial powers of language are very restricted by its established syntax, lexicon and phonemes. Nevertheless there is a certain scope for the operation of

similarity. Thus the question is being debated since the days of Aristotle whether there is some natural connection in the relation between the words and the objects or situations they represent. Any empirical solution of this question is not possible. Scientific enquiry should *perforce* remain content with the examination of the instances of similarity relation.

Speech-Sounds Representing Experience

Such an instance of similarity relation is to be found in what is called *onomatopœia*. Here the "speech sounds imitate certain familiar sounds of experience and symbolize either these sound-events themselves or the characteristic sources of the sounds." The study of Grammont (23) shows that the imitation is always an approximation and never an exact reproduction. For example, the sound that is represented by the French word 'coucou' is more nearly 'ou-ou.' The 'c's are added because, it has been said, the custom is against speaking two such vowels without consonant. Jespersen (27) has given many examples of cases where the vowel 'i' serves to indicate what is smaller, less significant or weak, while the vowels 'a,' 'o' and 'u' tend to indicate what is larger and more massive. Spair (58) conducted some interesting experiments on this subject. He selected sixty pairs of meaningless stimuli which were syllables like 'mal' and 'mil,' and asked the subjects to report which represents the larger and which the smaller variety of an arbitrarily selected object, say, table. He found that eighty per cent. answers favoured 'a' as larger than 'i.' In a second experiment Spair first assigned an arbitrary meaning to a nonsense word, as for example 'mile' for brook, then changed the vowel and asked his subjects what change there was in the meaning. The results were of the same nature as before. Spair's conclusions have been challenged by Bentley and Varnon (7) who found that trained subjects, when presented with nonsense syllables such as *zat*, *riv*, *fim*, etc., and asked to give synonyms or otherwise express the

meaning, gave responses which showed no evidence of phonetic symbolism. They consider that Spair's choice of words was responsible for the affective associations in his subjects' answers. In their opinion the basis of phonetic symbolism very likely lies in the total attributes of the vowel sounds.

Vendryes admits that there are differences in the capacity for expression among sounds or sound-combinations and the theory of onomatopœia is grounded on that fact. To take his example, "the German word *Kladderadatsch* is very suggestive of a pile of dishes falling in pieces, and the French *patapouf* of a bag of linen bouncing on the steps of a staircase." But he does not believe that vocabulary has arisen out of "a series of onomatopœic stems." He holds that certain words like *fleuve* are expressive because the sounds of which they are composed can comparatively easily rouse the images they represent.

Word Symbolism

As regards word symbolism, if *gestalt* psychology is to be trusted, one would expect that the total sound configuration of a word or *morpheme* (which is defined as the smallest meaningful unit in a language) might occasionally be similar to the configuration of the referent and the word or the morpheme thus appear naturally symbolic. A quick, brief movement is felt as naturally represented by the quick, brief sound of a word like 'zip,' which may be due to a configuration of the quick auditory movement in this sound unit.

Kinæsthetic Expression and Speech

Some have suggested that the kinæsthetic expression of the speech sounds is the basis of natural representation. The gesture theory of language is the outcome of that view. An exponent of the gesture theory claims that the origin and development of all languages are based upon certain positions and movements of the tongue, jaw and mouth which instinctively imitate

the events and objects of the outside world. The speech sound, it has been said, coming from a particular imitative oral gesture, evokes the same gesture in the hearer and thereby symbolizes the referent of which the gesture is an imitation.

The Theory of Zeigfeld and Symbolfeld

A most complete account of the function of representation of language has been given by Bühler. In his theory there are two fields of paramount importance, the *zeigfeld* and the *symbolfeld*, which have been translated as the demonstration field and the symbol field. In the demonstration field the speaker and the hearer are oriented during speech in the way a traveller is oriented toward a signpost which he interprets correctly (35). This field is associated with demonstration words such as *I, Here, There, Now, Right, Left, etc.* The symbol field refers to the context of linguistic factors in which a symbol appears. Bühler distinguishes two kinds of factors in this field, the syntactical factor and the material aid. By material aid is meant the peculiar associations which words carry with them and which are guides to the interpretation of other words. With this type of aid it becomes possible to reconstruct sentences and gather the intended meaning from the jumbled up words devoid of all syntactical forms. According to Bühler a word is made "more precise and more adequate to a given occasion of representation through the field values accruing from the surrounding fields." Bühler's theory offers a solution to the riddle how a group of linguistic symbols is co-ordinated to a situation so that the situation can be represented through them. Speech representation is not direct but mediated and indirect. The mediation and co-ordination are achieved through certain devices in the symbol field. For instance, the case system of the Indo-Germanic language interprets, says Bühler, the events and situations of the external world from a particular point of view through a scheme of action. A field device involving an action scheme can be used in the representation of

such a diversity of events and situations because here the demonstration field enters to provide a basis of interpretation and understanding.

Formal and Material Expression

Expression and *evocation* have been studied under two categories: formal and material. Expression is the causal relation between the speaker and the speech phenomenon. Paul (43) thinks that a sentence expresses the synthesis of several ideas while Wundt (73) considers that sentence formulation is the result of analysis of a total idea. Some modern thinkers, notably Stern, emphasizes the fact that in familiar expressions of familiar thoughts there is a good deal of automatism. The process of formulation is carried out unconsciously being aided by part associations and habitual linguistic organizations. On the side of material expression Brandl's (13) experiments with English prisoners during the Great War show material variations in speech with formal constancy. The same speaker is found to pronounce foreign words differently on different occasions. The relation of voice with personality has been investigated by Allport (4), Pear (45) and others and the result favours the view that personality is expressed, at least to some extent, by the speaking voice.

The Question of Imagery

With regard to evocation, which may be defined as the causal relation between speech-sounds and the hearer, there has been a good deal of laboratory work on the experiences involved in the understanding or comprehension of words. Cantril (15) found that a word could ordinarily be understood without any specific reference to imagery or conscious associations and the general comprehension came first while specific references, if they appeared at all, came later and "more in the manner of an illustration of meaning than as a career of it." Most of the

workers seem to be in favour of the view of imageless comprehension of isolated words. Schafer (54), however, thinks that the imageless elements in understanding are genetically based upon imaginal processes. The processes constituting the comprehension of words cannot be fully understood without going into the question of nature of meaning. Stout (61) says that our repeating mental images depends in a large measure on our power of controlling their motor constituents or accompaniments. In ideal representation we can command over an experience better when it becomes connected with motor processes peculiar to it and distinctive of it. Stout believes that "it is in the motor elements of the mental image, and in the control which they yield over the image as a whole, that we have ultimately to look for the origin of expressive signs, or in other words, of language, in the broadest sense of the term."

About material feature of evocation not much experimental work of importance has been done yet. But we have seemingly authenticated reports that some people may make others feel elated or depressed by their way of speaking a particular word. There are the reports that a Bonn student could bring "a market woman to tears by declaiming the letters of the Greek alphabet to her" and that an evangelist "could make men laugh or cry by the way he spoke the word *Mesopotomia*."

Origin of Language

On the question of *origin* of language four kinds of theories are mainly current :—

(a) *Representation theory*.—Under this head have been placed the bow-wow theory, the ding-dong theory and other theories of the type that make language an imitation of natural sounds. These theories, at one time very popular, are now neglected in scientific circle.

(b) *Expression theory*.—Under this we have the gesture theory of Wundt and Paget, the yo-he-ho theory of Noire (37)

the pooh-pooh theory and the festival-activity theory. Wundt's well-known theory makes speech a development from involuntary expressive movements which aroused ideas and feelings in the recipient similar to those in the maker of the gesture. Noire's theory finds the origin of language in the rhythmic utterances with which primitive men accompanied their co-operative work. The festival-activity theory relies on the supposition that spontaneous vocalizations were emitted in primitive community over a slain foe or quarry.

(c) *Evocation theory*.—It holds that the origin of language is to be traced to the capacity of primitive men for being affected by signs to which they respond as representing objects and situations.

(d) *Social Behaviour theory*.—It considers language to have developed in social situations as a tool for social action. According to Janet language originated in the "leader-follower command-obedience relationship." The leader inhibits the movements of pursuit, the inhibitions come out in vocal utterances and these in turn guide the followers. DeLaguna thinks that language is a development from "animal cries" which occurred when our ancestors "changed their dwelling from arboreal to terrestrial." The new situation demanded a great deal of social co-operation, especially in activities like group-hunting which could be realized only by the development of language.

Linguistic *evolution* is supposed to have proceeded in either of these two lines: (i) The development of language is a building process involving the progressive combination and integration of a number of elementary building units, called roots. (ii) The process of linguistic evolution is one of progressive differentiation of a number of primitive mass units. Jespersen thinks that the evolution of language shows a "progressive tendency from inseparable irregular conglomerations to freely and regularly combinable short elements."

Nature of Primitive Languages

Regarding the nature of primitive languages we are confronted with diversity of theories. Most thinkers agree that language arose in the concrete activity of primitive life and had originally no abstract analytic elements. Possibilities for two types of primitive units are granted. The first is proper-name-like unit. It represents a specific object or act in primitive life. Jespersen is in favour of this unit. The second is an inclusive unit called a 'holophrase.' It represents the whole of a concrete situation of importance but there is no analytic relation between parts of the holophrase and aspects of the situation.

Language is forever undergoing change. "For the most part the original language of the primitive tribes no longer exists," rightly points out Wundt. Single words of the primitive language might have been retained but generally the surviving primitive people speak the language of the comparatively less primitive neighbours. The Veddahs of Ceylon, to repeat Wundt's example, speak the languages of the Singhalese and Tamils, and the Pygmies of South Africa have appropriated the language of the Negro races. To the question how the primitive people came to lose their original language, the answer has been suggested that "the strongest races crowded out the most important mental creation of the weaker, its language."

Structural and Semantic Changes

Linguistic changes may be divided into two classes, *structural* and *semantic*. Under the first are put anatomical, geographical, national and emotional factors. Under the second are put certain social and psychological factors responsible for changes in meaning of words. The reasons so far advanced are, however, not adequate to explain the changes. Relying on the behaviouristic concept of conditioned reflex and making use of the fact of egocentricity of the infant, Latif (30) has treated at length the semantic development or the "ontogenesis of meaning."

For physiological reasons the child utters spontaneously the earliest vowel 'a' with one of the consonants *m, n, d, b, p, t*. The parents and nurse in their joy think that the sounds refer to them and "assign to these syllables a rational sense," as Jespersen points out. Latif also thinks so and vigorously contends: "The result of this egocentric delusion has been remarkable: in almost every known race, ancient or modern, the familiar names for mother, father, and nurse are one or the other following sounds, *ma, ba, pa, na, da, ta*, with the infantile reduplication." The *gestalt* school, however, will not be satisfied with explanations in terms of conditioned reflex. Koffka considers that the child's learning of meaning involves a sort of "general insight into representational relation."

Perception

The *significance* of language for various phases of the mental life of the individual is of great importance. The relation of language to perception, higher mental processes and behaviour has been examined both by the psychologists and the philosophers. Experimental psychologists agree that language gives greater individuality to the object or event perceived, causes similarities to be seen in things and makes the objective world stand out in greater articulation. A psychologist and a philosopher starting from diametrically opposite poles find it possible to reach the same conclusion that language is essential for the development of the external world of objects. The behaviourist says that in the development of the perceptual world of the primitive man and of the child language is most significant. The idealist philosopher also says that the most important and the most precise instrument for the conquest and for the construction of a true world of objects is language. Workers in the laboratory have found that different words spoken before the visual presentation of forms varied these forms considerably in reproduction, *e.g.*, two visual circles connected by a line would be reproduced differently when preceded by, say, "eye-glass" and "dumb-bell."

Thought

Though the significance of language in the world of perception is great, its significance is greater in the realm of higher mental processes. The relation of language to thought has been subjected to a most searching enquiry. The theory of the identity of thought with inner speech is not an exotic growth in psychology. In Plato (47) and Max-Müller (34) we find remarks to that effect. In recent times Watson's bold assertion that thought is merely vocal activity has been the storm centre of discussion. Watson has been criticised, in the first place, for confusing thought with thinking. Thinking is defined by Bartlett and Smith as a response to a universal quality and as such it is not amenable to behaviouristic treatment. Secondly, it has been pointed out that as words and speech constitute but one type of material of thought the Watsonian view is not adequate for the whole field of psychology of thought. Thirdly, Watson has been accused for his failure to realise the importance of imagery in thinking. Fourthly, it has been said that Watson has discarded facts to save his hypothesis as he has neglected to study consciousness and to take account of introspection. Fifthly, Watson has not fully seen that though overt or implicit speech may be at the basis of thought, bare knowledge of this is quite inadequate for a fuller understanding of the psychology of thinking. In defending his position Watson denies the possibility of responding to universal qualities. The so-called universal qualities are, in his opinion, nothing but words treated as objects. He holds that thought is identical with its expression and challenges those who believe in the contrary to show that the unobserved portions of thought processes are unlike the observed ones. He admits that introspection may be of some value but rejects it on the ground that it is more often than not unreliable.

The behaviouristic conception may be said to be open to a commonsense objection. When the behaviourists say that

thought is implicit speech, they offer a definition of their own of the term *thought*. In that case their statement may not be false but is objectionable as it calls for unnecessary departure from ordinary usage of the term.

Logical Thinking

The total identification of thought with inner speech may not be acceptable but there is evidence to show that the progression of thought is a sort of internalized conversation. Conversation in the form of argument is considered to be a good prototype of logical thought. Piaget has said that logical reasoning is an argument which we have with ourselves and which reproduces internally the features of a logical argument. The contention is supported by others who have found that pathological thought is the result of the same individual's inability to submit to social habits of thought. Language phenomena are essentially social facts and hence thought becomes socialized in so far as it takes on linguistic forms.

Behaviour

The significance of language for behaviour has often been remarked though not yet systematically studied. DeLaguna has theoretically discussed the matter at a great length. Lorimer reports instances where children displaying furious and uncontrollable temper become subdued and docile by being subjected to systematic instruction in language and symbolic activity.

Volition

The researches of Luria (33) support the theory that language lies at the base of volition and provide organized guiding stimuli for behaviour. It is highly probable that the elaboration that occurs before motor innervation and gives voluntary movement its organized form is achieved principally through speech.

Objectification of Concepts

The close relation of words and concepts has not escaped the notice of the psychologists. Smoke (57) and Willwoll (72) conducting experiments independently have arrived at the same conclusion that a person may have concepts without corresponding verbalization. Smoke points out that the use of a word seems to bring a certain objectivity to a concept. Smoke perhaps did not fully see the significance of objectification. In any case the matter has not been pursued by him. G. Bose has discussed the formation of abstract ideas and objectification of concepts and has cited apt instances like "love growing between two persons" to confirm his view-point. Years ago the suggestion came to Warner (67) that reality of an abstract idea or concept comes into existence only through the medium of language ; and before him Romanes (49) had hinted that the objectivity was bestowed upon ideas by speech-forms. The subject has received fuller treatment from a new angle of vision in the hands of G. Bose and his collaborators who have discussed how "human mind, although it acquires abstract concepts from concrete experiences and apparently regards the former as something quite different from the latter, in actual practice converts the abstractions into concrete ideas" (12).

Behaviour of Ego

The study of the behaviour of the *ego* from analysis of linguistic expressions is very meagre and only a few scattered remarks in psycho-analytical literature are to be found. The author of *Exploring the Unconscious*, Groddeck, roused interest by his passing remark that when others are offenders we say, "you have put a stain on the table cloth," but when we ourselves are offenders we say, "a stain has come on the table cloth." He, however, leaves his readers guessing as to the explanation for such changes in expressions. Peculiarities of the *ego's* behaviour have also been noticed by Jung in his *Analytical Psychology*. G. Bose's

study in this direction has been of special importance. He finds that human *ego* tries to deny all changes within itself and makes an effort to project its own experiences into the outer world, itself remaining immaculate. His observations regarding the part played by the different types of libido (genital, anal, oral, etc.) in shaping linguistic expression are original and may be applied to the general problem of understanding language in a most interesting and probably in a valid way.

Social Use of Language

Social use of language has been emphasised by three groups of thinkers who consider the following three functions as most important. According to the first group language controls and co-ordinates social behaviour. According to the second, language transmits culture from one generation to another and from one people to another. Finally, according to the third, language determines national individuality.

Equilibrium in Language

A *psycho-biological* view of language has been recently proposed by Zipf (74) whose book has been ably reviewed by Allport. Zipf regards speech as a co-ordinative tool of behaviour and as such a natural and measurable phenomenon. Zipf has applied statistical principles to the observable phenomena of the "stream of speech," mostly the written records of it, and has found certain interesting facts. His findings are : (i) The magnitude of complexity of a phoneme varies inversely with the relative frequency of its occurrence. (ii) The length of a morpheme varies inversely with the relative frequency of its occurrence. (iii) The degree of emphasis within the word varies inversely with the relative frequency of the occurrence of the accented portion. (iv) Emotional intensity and distinctness of meaning seem to vary inversely with the brevity of an expression

which in turn is a function of its frequency of occurrence. From these Zipf postulates a principle of "equilibrium in language." He says: "Nature abhors a disordered integrated condition in biological process of which language is but one manifestation. Behaviour functions in a direction prevailingly toward greater and more crystallized patterns." There is undoubtedly a dynamic tendency toward condensation but a speech-element will not disappear for that reason as the dynamic tendency is always checkmated by a necessary minimum of distinctness for any speech-element. The hearer requires that a speech should be comprehensible and this very fact imposes a limit upon the tendency of condensation. Thus, "there is a charting of a course in speech between dull over-articulation and incomprehensible under-articulation." Hence equilibrium prevails.

By analysing samples of prose in different languages Zipf has found that the most frequent word in a sample occurs on the average once in approximately every ten words, the second most frequent word once in every twenty words and so on. Psychologists cannot offer any explanation of this interesting fact and hence, as Allport comments, have to remain silent when the suggestion is offered that language should be viewed as "super-organic system possessed of quasi-biological rhythms." But they may observe that a psychology of linguistic change must involve more facts of comprehension and meaning than are given by Zipf in his psycho-biological conception.

Misuses of Language

Language is said to have certain misuses and these have been designated as 'verbal magic,' 'illogical persuasion,' 'substance fallacy' and 'verbal nonsense.'

Verbal Magic

In verbal magic words are considered to have direct magical connections with the things they represent, so that by multiplying

words one can thereby immediately manipulate the things. The primitive man may believe that by reciting a certain verbal formula he will achieve a certain effect or that by changing his name he will change his identity. Even amongst civilized people the influence of verbal magic makes the representational relation a fact of nature rather than a social convention.

Illogical Persuasion

By illogical persuasion is meant the use of terms having strong emotional connotations as a means of imparting a conviction rather than the use of a fact and logic. Illogical persuasion is found often in political propaganda. When a politician in order to retain his supremacy raises the cry of "religion in danger" and charges his political opponents with tyranny and atheism he takes recourse to illogical persuasion.

Substance Fallacy

The substance fallacy arises from the fact that most substantives in our languages of to-day refer to objects or substances in the external world. There is a tendency to believe that behind every substantive lies a corresponding substance. To avoid this fallacy the operational school defines the meaning of any concept as a set of operations.

Verbal Nonsense

The logical positivists are not satisfied with the ordinary grammar and make a much finer analysis of the ways in which words may be used, distinguishing many more word-classes and rules of usage. Hence many metaphysical postulates expressed in combinations of words permissible in ordinary grammar become "nonsense" when examined from the point of view of the critical grammar of the logicians.

III

CONTEMPORARY PHILOSOPHIES OF LANGUAGE

1. The Naturalistic Point of View

The ever-increasing divergence of the technical symbols of science from ordinary language and a growing tendency in some quarters to explain and evaluate speech in purely naturalistic and biological terms—these two have united to create a point of view that tends to make “nonsense” of most of our *meanings*.

Language as a Biological Product

For the naturalists, and as a matter of fact for the behaviourists and the pragmatists too, language is a biological product. They all say that speech has developed from the animal cry. The earliest speech was a sentence embodied in a single articulation. Speech is distinguished from cry in that it is a response to a perceived rather than to a felt situation. Watson's thesis that language is a series of muscular movements in oral activity and that learning of meanings consists of formation of conditioned responses, has received wide-spread publicity. The child does not invent language; he only imitates certain sounds of the elders in specific situations. In the learning of language the two principal processes are (i) the suiting of words to situations, and (ii) the perfection of articulation by trial and error.

Behaviouristic Conception of Meaning

The naturalists take a purely causal view of *meaning*. Ogden and Richards have shown that the same cause is responsible for the word and its meaning. To a person the word ‘bottle’ means the actual bottle because the effects produced by the object and the word are the same. Russell accepts the above principle as fundamentally correct but points out that Ogden and

Richards have only studied the cause of uttering words and have not taken into account the effects of hearing words. He suggests a more comprehensive formula of the theory of meaning. He says : When through the law of conditioned reflexes A has come to be a cause of C, we will call A an associative cause of C, and C an associative effect of A. We shall say that to a given person the word A, when he hears it, means C, if the associative effects of A are closely similar to those of C; and we shall say that the word A, when he utters it, means C, if the utterance of A is an associative effect of C, or of something previously associated with C.

Learning of Sentences

What is true of words is in the main true of sentences also, though learning of sentences cannot be explained away by a simple formula like the above. Learning through repetition of heard sentences is a comparatively simple matter, but to connect known words into sentences not heard before involves a great deal of complexity in the aforesaid cause-and-effect relation. Generally speaking, the principle of reacting to a stimulus holds good in the case of sentences too. Sentences are nothing but words linked up by the so-called relational words. For example, in the sentence, "the sun is above the earth," the words "the sun" and "the earth" are linked up by the relational word "above." As words produce perceptions of objects, sentences produce those of forms or structures. The correct use of sentence thus involves a "definite reaction to a stimulus which is a form."

A Defect

The behaviouristic view of *meaning* is insular, and the philosophy underlying it may be justly charged with shortsightedness. What logical and epistemological problems are involved in their conception of meaning, what difficulties lie ahead in the acceptance of such conception, how devastating will be its

effect on our world of meanings—these have not been clearly seen by them. These are better realized by the author of the *Tractus Logico-Philosophicus* (71) who is prepared to accept the consequences of attacking the foundations of traditional language. The logical positivists introduce radical changes in logic itself to cope with the situation.

Bergson's View of Language

Before we take up our discussion of the logical positivist's view-point we should recall the metaphysical teachings of Bergson whose attack against language is well-known. For Bergson (8), language is an instrument evolved merely to grasp and control the "stable and the immobile." It is not "moulded on reality" which in its ultimate nature is *change* and *duration*. Our entire language is infected with error and relativity, and this infection spreads through the entire logic and science bound up with our traditional language. The influence of Bergsonian ideas has given birth to a school of mysticism which not only insists upon an immediate intuition as the only source of knowledge of reality but demands that we should have nothing to do with the entire logic, old and new.

2. The Logical Positivist Point of View

Inadequacy of Language

The growing inability of science to communicate its insight through traditional (or natural, as it is called by some) language and gradual exclusion of all the categories of such language (*e.g.*, substance, cause, matter, etc.) from science, have produced a critique of the entire logic bound up with it and effort has been made to develop a "new logic" free from the trammels of traditional language. The chief object of attack is the Aristotelian logic and the metaphysics that would go with it. The primal function of language, the naming of things, is the source of all-pervasive errors. We are led to think that there is more or less

a persistent being because the same name is applied to a series of occurrences. As language becomes more abstract, new entities enter into our thought, that is, those entities which are represented by abstract words or universals. The tendency of language is to think that these latter stand for entities when in most cases at least they do not. Hence a logic that trusts in language to any degree is likely to fall a prey to a metaphysical verbalism. The influence of syntax is responsible for a further confusion. Almost any proposition may be put into a form in which it has a subject and a predicate combined by a copula. It is natural to infer, therefore, that every fact has a corresponding form and consists in the possession of a quality by a substance, and that is an obvious error.

Logical Syntax

The logical positivists believe that metaphysics cannot possess a scientific character. This part of the work of the philosophers, to have the precision and invulnerability of a scientific fact, should be founded on logical analysis. The aim of logical syntax is to provide a system of concepts by the help of which the results of logical analysis will be exactly formulable. Carnap (16), a prominent member of this school, asserts that philosophy is to be replaced by the logic of science, that is to say, by the logical analysis of the concepts and sentences of the sciences. For in his views the logic of science is nothing other than the logical syntax of the language of science. The new logicians believe that we have in every respect complete liberty with regard to the form of language. In other words, the forms of sentence construction and the rules of their transformation may be arbitrarily chosen. In traditional language construction proceeds usually by first assigning a *meaning* to the fundamental mathematico-logical symbols and then by considering what sentences and inferences are logically correct in accordance with these *meanings*. Now, the assignment of the

meaning is expressed in words which are bound to be inexact, and hence conclusions formed in that way are also bound to be inexact and ambiguous. These logicians point out that any postulate and any rule of inference may be chosen arbitrarily and this choice, whatever it may be, will determine what *meaning* is to be ascribed to the fundamental logical symbols. This point of view leads to the construction of a general syntax (*i.e.*, definition of syntactical concepts applicable to languages in any form). The logicians, therefore, claim that in the domain of general syntax "it is possible to choose a certain form for the language of science as a whole, as well as for that of any branch of science, and to state exactly the characteristic difference between it and the other possible language forms."

Symbolism and Reality

In their crusade against traditional language the logicians have the support and sympathy of the modern mathematician-philosophers, such as Eddington and Whitehead, who are disposed to see in scientific symbols a special language which can be translated into traditional language. They grant that the general agreement of mankind as to experienced facts is best expressed in language, but they object to the use of traditional language since it "breaks down precisely at the task of expressing in explicit form the larger generalities, the very generalities which metaphysics seeks to express." As is to be expected from a thinker like Whitehead, the question of symbolism has been examined by him with remarkable insight from every possible angle. Though he finds that our ordinary language, made primarily for practice, is not adequate for the purpose of science, he is not oblivious of the difficulty that scientific language and symbolism have to face in apprehending the temporal and emergent aspects of reality. To rise equal to the task Whitehead (70) has to define anew 'truth,' 'divine nature,' 'consequent nature of God,' etc., in his interesting system of reality which provides

the metaphysical background necessary for proper apprehension of any proposition which, however commonplace, always refers to a universe "exhibiting some general systematic metaphysical character."

3. The Kultur-Idealistic Point of View

Idealistic View of Language

The recent idealistic movement in reference to language is a part of the almost universal idealistic reaction against naturalism. The idealists who profess to fight naturalism do not all stand on the same platform. They may be classified as owning three relatively different standpoints: Neo-Kantian, Kultur-philosophical and Phenomenological. All however unite to offer a common opposition to that form of naturalism which makes language but a mere animal cry, and to that form of positivism which makes language evaporate altogether. They all look upon language as a *historical expression of transcendent meanings and values*. It appears that as the naturalists are mostly Anglo-Americans the idealists are almost entirely Germans. Of the idealists three names come foremost to our mind: those of Spranger, Cassirer and Vossler. Their work has given us some understanding of the general point of view of the German thought.

Spranger, as is well-known, advocates a *verstehende psychologie*, one that shall understand minds of persons "from within out." Since such understanding implies the recognition of an objective realm of meanings and values towards which mental processes are intentionally directed, the principle of the objectivity of meanings is taken as established. This general principle is then applied by him to the problem of the understanding of language (59). Such application, the present writer believes with Urban (64), is valid.

Writing primarily from the neo-Kantian standpoint, Cassirer in his enormous volumes on language (18) evinces the ways in which the various languages have expressed spatial and temporal

relations, abstract concepts of substance, cause, etc., and the fundamental ideas of metaphysics. He believes that certain logical functions have been present from the beginning but have only gradually freed themselves from their sensuous encumbrances. Cassirer's study of the entire philosophy of symbolism and the relations of language to myth and religion tends to prove that the reality is to be grasped only through language and that traditional language is not to be given up but developed. He says, as quoted by Urban, that "language is not a mirror reflecting an independent existing world, but rather the condition which alone makes possible such a world. Our ordered universe exists for us, in its shaping and structure, because of language. All culture consists in the creation of certain intellectual symbols and it is only by means of these symbolic forms that life is lifted from the plane of merely natural process to that of conscious spiritual process."

Cassirer's work has been in a sense supplemented by the researches of Vossler, whose investigations in the field of literature are highly important (66). Vossler represents the Kultur-philosophical point of view. In his latest work he has given a most comprehensive analysis of language as a medium or symbol of the entire range or system of cultural and spiritual values. The general drift of his findings is in the direction of maintaining the adequacy of language to thought. He recognizes that there is a tendency for logical thought to break through the linguistic form, but he sees with equal clearness that there is no intelligible thought that does not finally realize itself in linguistic expression.

The phenomenological point of view has been ably represented by Ammann and Guntert (5, 24). They, like the idealists, recognize the importance of the problem of language and insist that language must be viewed as embodying transcendent meaning. Ammann's work is valuable for his study of the relation of language to meaning, *Bedeutung*. He has developed a series of conceptions (such as, meaning as a historical fact, meaning as

conceptual content, meaning as intuitive content, etc.) which may be conceivably regarded as fundamental categories in the philosophy of language.

CRITIQUE OF THE DIFFERENT VIEWS OF LANGUAGE

(i)

Behaviouristic Conception of Speech based on Mechanical Learning

The conception of language as a biological product and its explanation in terms of situation-response mechanism seems to have a special fascination for certain minds. Reputed thinkers who do not belong to the behaviouristic camp are full of praise for the behaviouristic conception of speech. The popularity of this conception is to be sought in its "scientific character." Its conception of speech is, however, interwoven with the mechanical conception of learning, and when the latter conception is found wanting the former consequently suffers in prestige. B. Russell who expressed the opinion that "the only satisfactory way to treat language is the behaviouristic way," has been set wavering by the display of 'insight' by Köhler's chimpanzees.

Naturalists' Paradox

The naturalists find in speech nothing but bodily reactions. One of their spokesmen, Weiss, sums up the position by saying that all science, all philosophy, all poetry are in the last analysis merely speech and manual reactions occurring in the body of some individual and persisting as historical and contemporaneous records in the scientific writings. In that case, it will be as much right to say that "the cosmic evolution is an episode in man" as to say that "man is an episode in cosmic evolution." In getting out of this paradox DeLaguna takes a purely pragmatic view of the situation. But the mere assertion that a human being is concerned with things only in so far as they are of ser-

vice to him will satisfy very few. For, to many such a view will appear as a *petitio principii* of the validity of the very science and scientific method on which the behaviouristic account of speech is based. To a student of philosophy the pragmatists' dilemma in the field of cognition is well-known. The same dilemma has to be faced by the pragmatists in their account of language.

It is hard to deny that the meaning of cognition, in contrast with all other mental activity, is *objectivity*. Entities which appear in consciousness with a specific 'not-I character' are so treated that their content is freed from everything which appertains to individual peculiarities or immediate state of mind of the experiencing subject. The result would be the 'pure object' (59). The general validity of pure cognition lies accordingly in the fact that it is valid for every cognitive consciousness. Modern psychology tends to show, however, that objectivity cannot be achieved as pure experience but is always mingled with other active achievements of the conscious subject. Cognition is constantly interwoven with æsthetic, religious or economic motives, says Spranger. The truth of this is clearly seen on the mythological level and it would be a great mistake to think that mythology has been wholly banished from our present scientific cognition. In every cognition a general meaning must be realized. In individual consciousness the cognitive attitude is not in complete isolation with ideality.

Necessity of Trust in Language

Behaviourists of the ultra-Watsonian brand who are resolved to move in a narrow groove and obstinately keep their eyes shut to factual wealth and theoretical implications beyond their circumscribed field of discourse, may be advisedly left alone. No one, of course, questions the legitimacy and accuracy of their findings in the field of genetic psychology. But their *theory of meaning* and the *conception of the real* in terms of man's

reaction to environment are not acceptable for the simple reason that such acceptance puts a premium on human intellectual bankruptcy, if not for any other reason. There are, however, other reasons also. Some trust in language necessary for communication, is to be presupposed in all intelligible sense. And the essential postulate of such communication is a potentiality of logical form and objectivity of meaning.

That communication is an ultimate category has been grudgingly accepted by naturalists like Dewey (22) who does not, of course, admit the transcendental consequences of such acceptance. But without admitting that, it is difficult to see how the words can give any validity to their references even if the sense of meanings can be somehow retained and transmitted as Dewey has done in a way.

Existentialistic Conception

In their conception of language the existentialists take their cue from the Wundtian *gesture theory*. The essential thing about language, comments Titchener (63), is not the sound but the movement. This great psychologist stresses the fact that onomatopoetic words form a very small part of our vocabulary and considers that at first the uttered sound was meaningless accompaniment of gesture. The existentialist's view-point regarding the semantic change of words is that the course of change follows the general law of development, *i.e.*, from the more concrete to the more abstract. The ontogeny of meaning is explained in terms of the derivatives of the perceptual processes.

The sheet anchor of the existentialist is his well-known hypothesis of parallel mental and bodily activities. In the conception of language he has recourse to that hypothesis. The question how bodily gestures convey meanings does not perturb him. But the gap between the activities of the mind and the body is not a trifle to be overlooked and the

parallelistic hypothesis is a poor stopgap. A thorough-going panpsychism is a necessary philosophical presupposition.

(ii)

Logical Positivists

Wittgenstein, from whom the movement of logical positivism is rightly traced by Weinberg (though Russell's *Principia Mathematica* appeared earlier), has laid down that the ideal of perfect language should be to have "one name for every simple, and never the same name for two different simples." The main concern of this school seems to be to discover the conditions for (a) accurate symbolism, *i.e.*, the symbolism in which a sentence means something definite, and (b) 'sense' combinations of symbols which will always bear a definite and unique meaning.

Conception of Atomic Statements or Facts

Wittgenstein's theory, to repeat the remarks of Black (9), centres round the notion of *sense*. The sense of a statement has been defined in terms involving references to 'atomic statements' or 'atomic facts.' The world, *i.e.*, the subject-matter of philosophical analysis, is conceived to consist of simple irreducible objects occurring in complex arrangements or configurations. An atomic statement which is the simplest kind of true statement corresponds to each ultimate complex arrangements in such a way as to reflect the form of the fact by one-to-one correspondence between objects and words. All statements of more complicated reference to the world are reducible to logical conjunctions or disjunctions of atomic statements. This doctrine can be put in an alternative way: In order to have sense, a statement must be verifiable in (my) experience. The process of definition should follow this course, otherwise it will not be possible to know what a group of words means. It will then be just 'nonsense.'

Thus the atomic statements are the elements on which all other statements are based. All assertions which are not nonsense are either truth-functions of atomic statements or else mere hypothesis, *i.e.*, rules for constructing atomic statements.

The doctrine of Wittgenstein emphasises (1) the recognition of the importance of logical structure, (2) the exclusion of the logical structure from itself being the subject-matter of statements, and (3) the verifiability in experience as a necessary criterion of the sense of statements. Proved that much, the 'nonsense character' of the traditional questions in philosophy becomes self-evident.

A Criticism

The internal consistency of the above doctrine is beyond question. But the consequences that follow from the acceptance of this doctrine are too radical to be reconciled in practice. Any one who adheres consistently to that doctrine is "bound to wag his finger in lieu of speech or escape silence at the expense of discord between theory and practice."

Hierarchy of Languages

The outlook appears to be gloomy enough. But there is a possible means of escape. If in every language there is a structure concerning which nothing can be said in the same language, there may be another language with a new structure which can explain the former. That is the position taken up by the logical atomist, Russell, or the logical positivist, Carnap. The former admits a hierarchy of languages and the latter proposes the theory of 'protocol' language in which the expressions are directly recorded but the form of the language remains indeterminate. Both express the relation of words in symbolic form and call for the replacement of material mode of speech by formal mode.

Dependent Character of Truth

The outcome, in short, is that the doctrine of atomic fact is excluded, a wider criterion of verifiability in sensory experiences is retained and a pragmatic sense to general statements and natural laws is allowed. The solution is not, however, without its difficulty. Wittgenstein's clear notion of structure becomes somewhat blurred in the systems of later positivists and truth is telescoped between correspondence and coherence. For, if truth statements are provisional, some account is needed that does not make truth dependent upon human conveniences. The question could not be answered by the official pragmatists; it has not been answered satisfactorily by the positivists either. The question involves deeper philosophy and the contemporary logical positivists are content with mere establishment of the syntactical forms of sentences. They have few pretensions to metaphysics on their own admission and we know Carnap opens one of his essays with the remark, "the Viennese Circle does not practise philosophy."

Many people still hold the view that logic has to do with the nature of mental operations, *i.e.*, of the processes of thought. That is nowadays left to psychology. Every special-ist science has developed its own way of correct thinking. In order to have logical sense, to quote Firth, a statement must be verifiable in the space-time world and the words used must be linked consequentially with words referring to immediate experience. Verification in science being of an entire system of statements, the terms, the forms, the derivatives of the terms, and the syntax of the sentences are the whole logic of the science. One cannot lend another a logical term. Both must learn to use a common language, a common syntax, a common logic and share the whole linguistic *modus operandi*. The Viennese circle has arrived at the opinion that the physical language is the basic language of all science, *i.e.*, it is the Universal language.

Universality of Sense

How far the physical language of the logicians will meet the demand of a universal language comprehending the contents of all other scientific languages, is to be shown by future. It must be, however, conceded that the movement for controlled terminology and scientific syntax is of great importance in linguistics and other social sciences. Also, the desirability of developing notations for various technical purposes, with rules for mutual convertibility where necessary, cannot be denied. The Viennese circle has done a service by directing attention of the philosophers and the linguists to that. But the creation of a physical language in the way they propose to do will be helpful only to the initiated few, leaving the bulk of the uneducated mass untouched. For conveying universality of sense the uniform social condition of the use of language has to be ensured. Otherwise mathematics will be of course international but Chinese philosophy translated into English or French will be worthless for any purpose.

It may be recalled, in this connection, that in the seventeenth century certain pedagogues attempted construction of physical languages. We once laughed at Thomas Urquhart and Cave Beck for their samples of universal language in which 'Honour thy father and thy mother' would have to be written as 'leb 2314 p 2477 and pf 2477.' Their ghosts are now laughing at us for seriously considering the linguistic form of the physicalists.

(iii)

The Idealist's Conception of the Person

Contemporary idealists affiliated to, or inclined towards, Kultur school take their stand on the ground that admission of a universal mind, of which the individual minds are but parts, is an essential presupposition for any intelligible philosophy of language. The key-note to the understanding of the cultural

idealist's point of view is his conception of "the person." The idealists distinguish the person from the individual. Vossler blames Wundt and Paul for making the individual the most important factor in science or philosophy. What is needed in his opinion is a concept that will do justice to the individual as well as to the community, and he finds that this demand is fulfilled in the concept of the person. In this concept, "metaphysical and empirical thinking meet and fructify." The personality is both an idea and a fact. It develops by starting from the body or the external part and gradually expanding to reach the innermost self. The essence of personality is "that it lifts above itself in the core of its unity....., so that it may reach up towards the more comprehensive being that over-shadows it."

These idealists believe that the total human mind is as if a living organism existing through ages, and the individual minds are but parts of it in the sense that it shares its mental contents. What is said by the speaker can be understood by the hearer because the minds of both are *human minds*, being parts of the whole mind. "Every thing that is spoken on this globe," admirably puts Vossler, "in the course of ages must be thought of as a vast soliloquy spoken by the human mind, which unfolds itself in untold millions of persons and characters, and comes to itself again in their reunion."

By culture the Kultur school understands a historically given mental life, on the higher developmental levels. Culture is divided into a number of regions of activity or achievement and in each of these regions a specific kind of value is realized. Spranger calls these spheres of value or purpose constellations in so far as they determine the goal. It must be kept in mind, however, that the differentiation of each region is not a real division but rather a theoretical isolation according to the value which is intended in each case. In modern discussions the gap between belief and knowledge is fast diminishing. Modern theoretical science has aspects which are political, economic, moral

and religious (59). Synthetic method is not to be thought of as if concerned with the last differentiable elements out of which the mental life is built up. The idealists try to deduce from the eternal attitudes of human nature the fundamental directions which each culture embodies in unique arrangement. Single cultural levels have been found by reflecting upon mental life. Science, fine arts, religion, etc., then point toward specific mental motives.

Conception of Meaning

The Kultur idealists hold that the relation subsisting between thought, words and sentences and that which they refer to and mean, can be understood only if their conception of the *person* be accepted. The idealists' conception of the objectivity of meaning is that the person as it attains cultural progress creates certain intellectual symbols which constitute the cultural heritage of the successive generations. An individual inasmuch as he understands these symbols raises himself from the level of the mere biological creature and moves forward towards the realization of a spiritual process. The objective meanings receive their status not by reference to something beyond human experience but by being the creation of the total human mind.

Though the logical positivist's doctrine of syntactical form of language is very important the Kultur-idealist's understanding of the language is more valid and is nearer to our flesh and blood. It may be suggested that the 'understanding psychology' or 'value psychology' on which these idealists rely may be replaced by an 'affective psychology' with certain advantages and at the same time without disturbing the main idealistic implication. The present writer supports that suggestion.

The objective mind, according to idealists like Spranger, is the ideal complex of norms, and is objective not only in the sense that it exists outside of the individual but also in the sense that it is normative, genuine and valid. It is some sort of

“over-individual historico-mental sphere.” Keeping this position intact it may be said that the objective mind signifies the socially determined *milieu*, and instead of emphasising the intellectual environment which is said to have become history, we may think that the affective or emotional content has been the potent factor. The normative mind, then, means not so much the intellectually determined cultural ideal but rather the emotionally determined social ideal. The value attitude remains, and the individual self, surrounded by over-individual mental configurations, evaluates through *appreciation* instead of realization (*i.e.*, understanding).

(iv)

MEANINGS

Various Concepts of Meaning

Looking up for a concept of meaning in psychological literature we find that different systems of psychology have different concepts of meaning. In the system of Titchener (68) meaning is conceived as a *sensory context* accruing to a given mental process. In his views “meaning is psychologically always context; one mental process is the meaning of another mental process if it is that other’s context.” The behaviourists regard meaning as a *response*. A word owes its meaning to the conditioned response to that word and hence meanings are explainable in terms of causal references. The psycho-analyst refers meanings to unconscious mental processes or attitudes. Other senses in which meanings have been used by different psychologists are *supplemented imagination*, *volitional experience*, *relational experience*, *signification*, and *implication*.

Schachter (55), a logical positivist, defines meaning of a word as the *rules of its usage*. Whitehead considers meanings as *symbolic references* and comments that the “failure to lay due emphasis on symbolic reference is one of the reasons for metaphysical difficulties.” The idealists regard meanings as *historically developed symbols* embodying experiences of the total human mind.

Approaching to some extent the point of view of Holt, Latif suggests that when a similar response is made to a symbol instead of to an external object, we have meaning instead of awareness or perception. The meaning of even the most abstract terms and likewise of mathematical symbols is a motor recreation. In counting, for example, one moves from one object to another, reproducing an aspect of the environment, and the meaning of a number symbol is thus a series of chain reflexes.

In one of his earlier works G. Bose (11) has said that in perceiving an object we take up a definite action attitude with reference to it. This action attitude corresponds to the meaning of the object. According to him there is a wish corresponding to this action attitude. This wish has two contradictory factors. One factor is conscious and the other is latent and unconscious. In the appreciation of an object the unconscious factor finds satisfaction by the mechanism of projection which is nothing but identity with the object.

The Social-Affective View of Meaning

According to the 'social-affective continuum' theory of mental processes (which the present writer defended in a paper read before the Indian Philosophical Congress of 1934) meaning may be conceived in social-affective terms. This conception is in a way formally the same but materially different from the Kultur-idealistic conception. The Kultur-idealist's conception of human mind—the whole embodiment of human experiences of which the individual minds are but parts—is valid; but whereas the Kultur-idealist emphasises the intellectual origin of symbols and upholds understanding psychology, the believers in the social-affective theory (amongst whom the present writer is included) say that the symbols are of affective origin. This latter view may be more acceptable to empirically minded persons and may be found to be more in keeping with the spirit of modern psychology. Vendryes, Bloomfield and others

have discussed the affective growth of linguistic symbols showing how affectivity "penetrates into grammatical language" disintegrating it, and the way it always "envelops and colours the logical expression of thought." But a systematic presentation of the affective theory and its bearing on meanings has not been attempted by them. On the question of the nature of meaning the social-affective view-point as advocated by Hartshorne (25) and defended and developed by the present writer is as follows.

Objects as Objectified Feeling

By putting a few lines in a particular order on a piece of paper we can project the meaning of 'house' on the drawing. This is possible only because these lines have a general resemblance, however crude, to the actual thing they represent. The *meaning* is not indiscriminate projection upon an object regardless of its fitness to embody that meaning. The object and the subject are not different. The feeling which pervades the whole world of subjects becomes partially objectified and constitutes the world of objects. A meaningful symbol is a qualitative unit of the affective process externalized. The meaning of a symbol cannot be appreciated unless the symbol evokes an emotion due to affective continuity. All affection or emotion, to occur at all, must be integrated into the total emotional complex. For example, complicated music which is not understood is not heard or not clearly heard. Only when the whole being pulsates in emotional unison with an intricate pattern of sound feelings, can attention consistently focus upon that pattern and the meaning can be appreciated (25). The perception of an object by a painter and a philistine cannot be the same. The gestaltians and the psycho-analysts will support that contention. The assumption that persons whose sense of the meaning of a piece of music differs but who yet can have the same sense perception, is without foundation.

Sense Datum and Meaning Not Distinct

Sense datum and meaning are not distinct. In the perception of sense datum we may attend to some part and scarcely sense other parts. We say in that case that we miss much of the meaning. These errors may produce alternations in the sensory complex as given and not in the actual form or colour intuited. Therefore, these cases do not prove that sense datum and meaning are distinct.

The persistence of spatial, temporal and sensory qualities is attributable to social dimension and affective continuity of experiences. It will be beyond the scope of this essay to examine in detail all the factors. A few examples will illustrate the point.

Meaning of Colours

A perceived colour is a *feeling felt objectively*. Theoretical considerations of Troland and Hartshorne and experimental investigations of Von Allesch (3) are in agreement with that view. By the phrase 'felt objectively' is to be understood 'felt as other than one's own feelings.' The colours represent the mode of variation of our affective life. Their meanings can be realized only if taken in that context. (The present writer discussed these in a paper read before the Indian Science Congress of 1935.) Scarlet represents warmth and activity; yellow represents brightness and joyousness; green represents passivity and quiet cheerfulness; and violet represents dullness and sorrowfulness. The social value of the colours will be apparent from the fact that scarlet resembles blood and is associated with danger and hunting. Green is the colour of the vegetable covering of the earth and is suggestive of quietness. And similar values are attributable in case of other colours.

Space as Social Externality

The meaning of 'nearness' and 'distance' will be apparent when we consider the fact that nearness means greater fullness

of detail and is associated with things more intimate while distance implies faintness and scarcity. Space, in this view, is simply *the form of social externality as such*. The spatial depth of perception is its social objectification. The 'zero' of perceived depth is one's self and the maximum depth is equivalent to infinite social independence. The direct consciousness of this degree of intimate union with the self is 'near' and 'far' as percepta (25). Depth-distance gives us independence and distinction, yet social rapport with respect to others.

Geometrical Figures

The meaning of geometrical figures can be specified in social-affective terms. A triangle is the mode of social grouping in which three individuals may share alike in the same relationship to the group as a whole. A square fulfils the same condition for four. But a circle has the unique property of allowing none of the group a favoured position. Hence probably are our fad for 'round table conference' and our fancy for round dining tables.

Sounds Directly Apprehensible

The affective theory can readily explain the remarkable fact that the cries of higher animals are intelligible in their demonstrable behaviouristic meaning, apart from the necessity for learning these meanings. No musician would fail to discriminate the note of discontent between the growl of a cat and its soft purling sounds uttered in a state of placidity. Experience confirms this meaning, but meaning itself is conveyed by the hearing of the sound at once and directly, confirmation being superfluous.

Granting that sensory qualities are primarily and essentially affective in character (a hypothesis supported by the present writer in an article published in the *Calcutta Review* in September, 1937) illustrations like the above may be multiplied to show that realization, or better to say, appreciation, of meaning is after all *feeling*

of feeling, i.e., feeling of the externalized portion of the feeling which, as Hartshorne says, constitutes the object and is thus in a relationship of affective continuity with the feeler regarded both as an individual and as a social whole.

Sociality

The conception of meaning that is being advocated here follows from the principle of sociality and affectivity. The term sociality has been used in a sense different from the ordinary one. Sociality is not a derivative result of the "combining of privacies." In other words, a conscious individual is not related to other conscious individuals by only what from the logical point of view is called an accident. It is not to be regarded either as a complex of too high a degree to represent the primordial conditions of mind. On the contrary sociality is such that it allows for variations in complexity along as wide a range of degrees as possible. If the principle of continuity be accepted, then the difference between myself and my neighbour is a difference of degrees. The assumption of a kinship of quality between one person and another does not outrage our intellect or tax our imagination more than the assumption of psycho-physicality does. If we grant that a social community permeates experience and abandon our long cherished non-social doctrine of sense data, the problem how minds can communicate becomes empirically soluble.

Individual Awareness Dependent on Other Mind or Awareness

Our tendency to make the individual the pivotal point results from the uncritical acceptance of the principle that relations are secondary features of the universe. Save for paying homage to past belief it is difficult to see why being-related-to-being should not be as fundamental as mere being. The 'private' of an individual is nothing but an aspect of the

relation of mind to mind. Modern psychology and philosophy are gradually yielding to facts exhibiting the social character of mental growth or the basic human desires. For centuries we have stuck to the assumption that one's mind is independent of others' minds. And we are left today amidst a formidable array of epistemological paradoxes and ethical dilemma. Philosophers are still fumbling with the problem of 'knownness and knowing,' and we have not been successful in our attempt to found 'duty' upon self-interest. The coinage of the term "enlightened self-interest" has not actually enlightened our mind but has served to enliven discussion only. The alternative assumption that one's awareness is dependent on another's awareness now deserves a trial.

Self and Other

The most obvious distinction involved in all social feeling is that between self and other, *i.e.*, between self-regarding feeling and other-regarding feeling. This distinction is, however, a matter of degree and hence relative. The feeling of self is not an absolute thing: it fluctuates endlessly between vaguely demarcated extremes of vividness or centrality and dimness or unfocused indirectness of attention (25). In life we desire to increase the intensity of both of these poles without detriment to either. The self-regarding feeling or the other-regarding feeling comes into prominence according as the contrast between these two poles of consciousness is more or less explicit.

Sociality implies relation between individuals; and individuality in the social sense means a certain freedom or independence of action. If the ideal of activity be suppressed, the social situation becomes void and meaningless. If the striving be suppressed, the significance of pleasure and pain, of joy and sorrow, of hope and disappointment, of co-operation and sharing in effort—all will disappear. Social activity involves always some degree of passivity toward the influence exerted by

others. Such passivity, however extreme, involves always a certain amount of activity.

If the social dimensions of self-other, active-passive, faint-intense, and the like, are accepted, the world of experience is to be viewed in its social implications. Our experiences are not private, subjective or non-affable. The redness of one person's experience, for example, might not be different from that of another. In realizing the meaning of an object we are affected socially. We do not separate the quality of the thing from its structure. Structure itself is felt as qualitative and qualities as life-expressive. The feelings are socially structured intrinsically, and in feeling the distinction between quality and relationship is a matter of emphasis only.

To the charge that the principle of sociality is a superfluous addition to the hypothesis of psycho-physical relationship it may be said in reply that in psycho-physical continuum it is far from obvious how there can be any kinship between mind and, say, an electron. On the contrary it is more obvious that there is a kinship of quality between one person and another and that this fact is more acceptable than the inference to the nature of a physical substance. Sociality is a more clear idea than psycho-physicality.

Language and Human Nature

Language (speech) is the very essence of human nature. The study of language cannot be pursued without continual reference to human nature in general. The professional behaviourists depend on reflexology. The idealists of Germany rely on culture. The psychologists whom the present writer is representing here put their faith in affective-sociology. It cannot be said that the view advocated here is the only correct one. Rather it is one of the alternative views to be given a chance. It is just one sort of hypothesis to explain meanings. The behaviourists deal with the manifestations of linguistic behaviour only. Human

urges, drives and feelings are to be considered for a fuller treatment. The psycho-analysts explain the drives and urges. The present writer does not think that affective-social view will be so much in clash with the psycho-analytical one. He believes that the affective-social way of looking into things may be to a certain extent harmonized with what the psycho-analyst has taught us about human nature.

Significance of Speech

The ancients ascribed great significance to speech or language. The ancient Hindus regarded *Vāk*, as is well-known, as a manifestation of Brahma. It was, in other words, regarded as the creative power of Brahma. The Hindu God created the world by saying *bhū*, and the Hebrew God did it very much in the same way. "And God said, Let there be light and there was light." "In the beginning was the Word, and the Word was with God, and the Word was God," Thoth or Tehuti, the Egyptian God, was "the heart and tongue of Ra, and the means whereby the will of God was pronounced, and having been pronounced, became effective in creation." As to the meaning of speech the ancients believed that the meaning of God is the power of His Name. The relation between speech and meaning is the same as the relation between a *mantra* and the particular deity or power it mobilizes. A *mantra* is the living symbol of a deity and its meaning is its power.

The Kultur-idealists and the affective-socialists invest language with importance almost as great as that conceived by the ancients. For the idealist reality and linguistic expression are identical. For the upholders of social continuum theory language behaviour is the only typical manifestation of the life of the social group in its network of bonds. As regards meanings, we carry about us what Firth calls "sets" of attitude, predominantly social, and language being the manifestations of the "sets," the realization of the meaning is the same thing as feeling a kinship between the selfhood and the otherness.

(v)

EXTENSIONALITY OF LANGUAGE AND MEANINGS

Extensional Character of the Language of Science

In Tractus' doctrine we find that every sentence is a truth function of the elementary sentences. In the terminology of the 'logic-is-syntax' school every sentence, then, is extensional in relation to partial sentences. Carnap remedies the defect of Wittgenstein's thesis which overlooked the fact of multiplicity of languages, by saying that a universal language of science may be extensional. This, in other words, means that a given intensional language may be translated into an extensional one. In the views of Russell a typical intensional sentence like 'it is raining now in Paris' is not really intensional but only apparently so. Neurath, Carnap and others of their group believe that sentences like the above are genuinely intensional but are translatable into extensional ones.

As a general principle the thinkers of the Viennese circle state that the intensional sentences are quasi-syntactical and hence is the possibility of their being translated into extensional languages. Many intensional sentences belong to the type of autonomous mode of speech: they can be easily translated into extensional sentences of syntax. For instance, "Charles says A" can be translated into "Charles says 'A'." Again certain intensional sentences contain terms called modalities (*e.g.*, possible, necessary, contingent, etc.). Since these terms are vague, they can be better replaced by syntactical terms, *e.g.*, "A is possible" may be translated into "A is not contradictory."

Necessity of Intensional Logic Denied

If all intensional sentences can be translated into extensional ones, is a special logic of meaning superfluous? Lewis's argument that extensional logic is to be supplemented by a logic

of meaning and that inferences depend upon meanings, need not make the necessity of intensional logic absolute. There is reason in the positivist's contention that given the syntax of a language, even if that language be not understood, the logical relations between two sentences can be established. But from that it does not follow that meanings have no place in a philosophy of language. The thesis of extensionality of language does not appear to be wholly incompatible with the view of meanings taken in their objective character. The charge of verbal nonsense is invited only if the meanings be taken in biological and subjective sense.

M. Adler's view (2) that meaning can be divorced from truth and reality and that whereas logic deals with truth dialectic is concerned with meaning, offers an escape from the logician's snare. This distinction, however, breathes an air of artificiality. Language expresses reality, and expression and reality are one. Reality, the present writer believes, is the actuality of which the potential form is truth. Furthermore, reality reveals in meaningful symbols. A logic that is competent to deal with truth is also competent to deal with reality or meaning.

The positivists limit themselves to the study of the formal side of sentences in syntax and are not concerned with the material side, *i.e.*, sense. But the sense and the relation of sense permit of being formally represented. That is possible because of the objective character of meanings. The formal side of the sense of a sentence is represented by means of the term 'content,' and the formal side of the relation between sentences by means of the terms like 'consequence,' 'compatible,' 'contra-valid,' etc. Thus in formal construction the meanings are there all the same. Otherwise the very presence of forms would have been unexplainable. Logical relations are logical meanings. The reality may be broken up into "events," the expression of reality, *i.e.*, language, may be translated into mathematical symbols, and a large portion of the subject-predicate logic may be swept away; but that will not dissolve the meanings

or disprove the contention that thoughts bound up with symbolic expression contain the potentiality of logical form and embody trans-individual experiences making up the world of objective meanings. Formal logic in its treatment of the formal side of syntactical sentences incidentally deals with meanings too.

APPENDIX

1. National Language

It has been claimed by some that there is such a thing as 'national language.' We can find scattered evidence in support of the contention that national speech expresses national character. The official psychologists have not yet made up their mind on the question whether the formal features in the language of a social group have a relation to the character of the group similar to the relation that certain material features such as voice have to an individual personality. It seems natural that this should be so. Hence probably there is a tendency to take it for granted instead of going through the trouble of proving it. Delacroix (21) wrote that the grammar and the vocabulary of a language reflected the point of view of the social group as well as its historical vicissitudes. Not much evidence, however, had been adduced by him in support of his statement. G. Bose and his collaborators have attempted to show that the positions of objectives and verbs in the sentences of different languages reveal that the Indians are more concerned with objects while the Europeans show marked preference for action. Studying the presence of active and passive forms in certain Indo-European languages Vendryes came to the conclusion that the distinction between the active and passive categories rested on a very slight basis. Mere analytical study of the grammatical categories is not likely to show how far the syntax of a language reflects the mentality of the people using it. Psycho-analysts may throw new light on this question.

There is no doubt that the grammar and general word-type of a language is essentially psychic. Grammar arises as an unconscious process. In using language few would

have become aware of moods, tenses, etc., were it not for the school teachers. A man may suppose that he is analyzing situations objectively, when in fact he is merely analyzing that phase of them which happened to be present in the categories of his native tongue. Thus the deepest design of a man's thinking would take shape from the pattern of his language. Each language can, therefore, reveal the mental traits of the users.

From Karlgren's (29) study of the Chinese language we learn that the Chinese use monosyllabic words unchanged in various combinations of meanings. For example, the word 'jen' means any one of the following: man, men, men's, the man, the men. Further, Chinese language abounds in what is called homophones (*i.e.*, sound with many meanings like the English sounds, Rid, Read, Reed). Over and above these the Chinese use sentences in the way we do in telegrams. A Chinaman, for example, will say 'Pu mai,' literally meaning 'not buy,' instead of saying 'I will not buy.' He discards the subject as well as the predicate. Now, such brevity of language may denote vast intellectual superiority, which, however, is really wanting in the Chinese people. The result is that the people have a feeble grasp of their own tongue. The brevity reveals not superior intelligence but narrow egocentric mentality. The Chinese interest is not in the clarity of expression. Pitkin rightly observes that a Chinaman remains within the circle of his own thoughts and his language is like shorthand indications of his private thoughts.

For a people whose intellect is of, low order, language should be such that nothing is to be left to guess. Such a language is Bantu. In Bleek's (19) *Comparative Grammar* we find that in Bantu the subject of discourse is repeated in every word. Similar is the case with Uganda people's speech. Johnston cites the following example: 'They these-they-person they-bad they-who-kill we-them fear.' This sentence means, 'They are bad people who kill. We fear them.'

Language Creating National Character

The correctness or otherwise of the theory that language or its syntax indicates national character traits does not lead to the deduction that people created their languages to suit their conveniences. A nation does not speak its national language because of its national character. Rather it owes its national character to the language it speaks. The French people, to quote Vossler, do not speak French because of French type of mind they possess. The French language is not the product of any outside influence. The French scholars did not at any time sit down to formulate a language for the nation. The language is of spontaneous origin, self-growing and has a history of development from the primitive time to the present moment. It is as old as the society and the latter thrives only because of 'language community.' A person born in a social group comes under the sway of language and his type of mind is moulded after the linguistic design. Through language he gets the stamp of his national character, which is manifest in every sphere of his life, judicial, political, ethical, scientific and metaphysical. A Bengalee, to take a homely example, in speaking the Bengali language which is the *whole of the Bengalee mind*, shares the same mentality with other Bengalees and thinks and acts in the spirit of that Language.

National language is at the root of national feeling. A person loves his native language for mainly two reasons: a natural affective value of childhood, and an objective value of achievement and general human significance. The language is looked upon as an emotional as well as cultural possession and the social-affective spirit in language gives rise to national feeling.

Universal Language

Though there are different national languages, these are not wholly independent of one another. Being related to the human

language as a whole, a sort of kinship subsists between them. Setting up of rigid language fronts will be an artificial device. Languages are sure to break through such barriers. There is such a thing as universal culture or universal emotion. For a world citizen his national language will be a language expressing such universal cultural achievement and emotional attitude. Great masters can, therefore, put their thoughts in linguistic expressions that soar high above narrow nationalism.

Language, then, reveals national as well as human character. It is, however, in no sense subservient to individual wantonness. The abiding truth in Fichte's statement that *men are formed by language rather than language by men* remains untarnished.

2. Alleged Inadequacy of Language

This essay may now be closed with a few cursory remarks on the adequacy of language. We are these days being challenged or pestered with assertions that language is incapable of expressing fineries of intellectual thoughts, the concepts of modern science. If vocabulary and syntax fail to do justice to our thought, one does not know what else will succeed. The Greek alphabets representing entities or events, with an array of numerals placed above and below these alphabets to express quantity, and profusion of curves and dashes to denote relations, may be a convenient code of language for the indication of the concepts of special sciences or for their manipulation for further deductions. But such a type of language cannot be claimed as an all-round improvement upon our ordinary language of vocal sounds.

The relation of the vocabulary to intelligence has been studied by psychologists, and their definite opinion is that poor vocabulary goes with low intelligence. A child with a possession of inadequate vocabulary cannot pass the linguistic tests because he cannot express himself. One with superior vocabulary can express thought in a way that causes our envy and admiration. In these days of progress of science and culture,

vocabulary has vastly expanded and is being daily expanded. It is very difficult to be a master of vocabulary. In our ordinary conversation we do not require more than three thousand words, and for reading purpose usually about five thousand words will do. Only a few highly educated persons traffic in forty to fifty thousand words. Still this number is far below the number comprising contemporary vocabulary.

Possession of vocabulary alone will not be sufficient. The words can be put in various combinations to express subtle thoughts. A slight change in the position of the verb or the article will greatly expand the range of meanings. What a world of difference in the meaning is produced, as a psychologist points out, if we say 'lost is the little key,' instead of saying 'the little key is lost'! The poets to some extent make use of this secret. A line in poetry can speak volumes more than what cut-and-dry prose can do. Then, again, familiar words lose affective and imaginal forces in course of time, and hence there appears a feeling of inadequacy with respect to them. The popularity of the symbolist poets lies in the fact that they avoid direct representation of things by familiar names and attempt to create feelings by 'intimating things rather than stating them,' as Edmund Wilson says.

The relation between vocabulary and emotion has not yet been adequately studied by the psychologists. Strong emotions gag speech or give vent to a volcano of babels. Emotional development of the child is closely allied with his development of vocabulary. Surging emotion finds expression best in non-stereotyped language. Our ordinary language has been somewhat strangled through the tendency to inhibit emotion. The lifting of the ban will allow free play of thoughts and a fresh development of language will follow. The capacity of language to express our thoughts and emotions has not been fully gauged. When our feelings will find better expression in language, the fallacy of inadequacy will be finally laid to rest. In a more developed form of our natural language all concepts will find

expression. Those abstract portions of the concepts which cannot be expressed are those which cannot be appreciated by us, and for any purpose whatsoever, need not be expressed !

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THE RHYTHM OF BENGALI PROSE AND PROSE-VERSE

BY

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CHAPTER I

RHYTHM AND METRE

At the outset of any discussion regarding the nature and character of the rhythm of prose and prose-verse it is important to clear our notions regarding the essential quality of rhythm. Very often our erroneous preconceptions respecting this important question stand in the way of our forming a correct idea and sometimes even of our perception of a rhythmic quality in prose composition. According to many thinkers, especially the scientists, rhythm means periodicity, whether of processes, or of motions, or of sounds. Rhythm, according to them, is a fundamental fact of life and consists in the alternation of two antithetical processes like anabolism and catabolism, each life-cycle being a repetition of the preceding one. It is under the influence of this idea of rhythm that a metrician like Prof. Jacob has laid down that "rhythm is constituted by the return at sensibly *equal time intervals* of the phenomenon which renders the division of time perceptible to the hearing or the muscular sense." It is in this sense that the word 'rhythm' is used also in music, rhythm of music being closely associated with accent and periodicity.

The definition of rhythm stated above will clearly be found to be inadequate if we take rhythm to indicate the per-

ceptible counterpart of the artistic emotion, to imply the inner principle of constitution, order and harmony in all fine arts on account of which the latter succeed in making the necessary sensuous appeal and induce the desired artistic consciousness. In its wider sense, the sense in which it is the *sine qua non* of all artistic creation, rhythm is at once the condition and the effect of an emotion of beauty. In this wider and more general sense rhythm is not always a matter of periodicity or repetition. In the beautiful colours in the sky at sunset, in an elaborate piece of painting, say, of the Indian school, it is not obviously any repetition or periodicity that impresses us. On the other hand, it has often been noticed that mere repetition often fails to produce the desired or any rhythmic effect and the mechanical adherence to a formula like *ti-túm ti-túm ti-túm ti-túm ti-túm* only produces a disgusting sense of monotony.

A wider and a more thorough-going conception of rhythm is, therefore, necessary. We have to recognise that though repetition is a feature in many popular forms of rhythm, it is not essential to it. In fact it is useless to try to fix upon any obvious objective feature like uniformity as the definitive mark of rhythm. It has long been recognised that variety or diversity is as important as uniformity in rhythmic creation, and rhythm has, therefore, been often taken to mean 'unity in variety' or 'uniformity in diversity.' Such phrases, however, are extremely vague, for they do not tell us whether any sort of variety or diversity may be associated with the element of uniformity in order to produce a rhythmic effect. Variety, we know very well, may at times be inimical to rhythm, and hence we have to go in a circle trying to define what is rhythmic variety.

A better plan will be to approach the problem of rhythm from the subjective standpoint. If, like the writer in the Oxford Dictionary, we recognise rhythm as the "effect produced in verse, prose, music, or motion, by the relations in quantity, stress, time, or energy, between the syllables, words, notes or movements, that succeed each other" we shall be at least on

right lines. Those who have made a special study of the subject in recent years, find rhythm to be a "texture of expectations, satisfactions, disappointments and surprisals" brought about by a sequence or a collocation of phenomena pleasant to the senses. It is, of course, connected with repetition and expectancy, but its effect has as much to do with the recurrence of the expected as with its failure. From its perception of previous sequences the mind is always consciously or unconsciously anticipating something to follow rather than another. "A twist" is given to this expectancy by what follows, and "it is in terms of the variation in these twists that rhythm is to be described." A sense of rhythm is, therefore, due to an agreeable surprise after an expectation.

When rhythm is thus regarded it will not be difficult to perceive how prose, while defying all the principles of metrical regularity, can be truly rhythmic. In fact we shall be justified in stating that the laws of metre only provide for one special variety of rhythm, and that is of a too obvious type. "In metrical reading the narrowness and definiteness of expectancy is very greatly increased, reaching, in some cases, almost exact precision." We must remember that the best verse does not derive its effect solely from the regularity or uniformity of metre, but to a very large extent from the element of variety due to the sound effects, variation of pauses, etc. In fact the essential quality in any rhythmic creation is its capacity to excite the aesthetic perception by suitable stimuli provided by agreeable variation. What will constitute an agreeable variety in a particular instance, is dependent upon the particular emotion at the moment and the requirements of a general mood. Metre derives its main effect from a sort of hypnosis produced by repetition of a pattern. This hypnosis is a helpful condition but by no means the *sine qua non* for the production of a rich rhythmic effect. It may not be going too far to say that prose has a more developed and elaborate rhythm than verse. With Rabindranath we might say :—

পত্ন হোলো সমুদ্র,
 সাহিত্যের আদি যুগের সৃষ্টি ।
 তার বৈচিত্র্য ছন্দ তরঙ্গে,
 কলকল্লোলে ।
 গত্ব এলো অনেক পরে,
 বাঁধা হুন্দের বাহিরে জমালো আসর ।
 * * *
 গজ্জনে ও গানে, তাণ্ডবে ও তরল তালে
 আকাশে উঠে পড়ল গত্ববাণীর মহাদেশ ।
 * * *
 এতে চিরকালের স্তব্ধতা আছে,
 আর চলতি কালের চাঞ্চল্য ।

[Verse is like the sea, the first creation of literature. The undulations of metre, its roar provide the rich variety of verse.]

Prose came long afterwards. Its feats were displayed away from the precincts of regular metre. Through thunder and melody, through wild grandeur and soft liquidity of rhythm heaved up to the sky the high and vast land of the language of prose.

It possesses both the stillness of eternity and the thrill of the passing moment.]

ESSENTIALS OF METRE

The essential condition of metre is the presence of a regulating pattern. It is a temporal rhythmic sequence of speech sounds. It “adds to all the variously fated expectancies which make up rhythm a definite temporal pattern.” The element of variety, a quality of harmony may not be impossible in or incompatible with metre, but the beautiful varieties necessary for good rhythmic effect play across the pattern that regulates the constitution of metre.

Beyond the presence of some sort of a regulating pattern, no other definite conditions can be prescribed for metre. The

pattern may be associated with any or all of the larger or smaller divisions and sub-divisions of a composition in verse, like the stanza, the verse (or the line), the measure, etc. The pattern may base itself upon any of the various characteristics of human speech like length or stress. The pattern may be simple or intricate or variously elaborated, and may in itself be the expression of some rhythmic idea on account of the expectancies aroused, deferred, fulfilled or left unsatisfied, such elaboration being often found in the stanza-schemes and in the variations in the lengths of successive verses. But whatever be the variety, the pattern must be there and should repeat itself to produce a metrical effect and hold in check the tendencies for a too great variety.

ITS HISTORIC PRIORITY

Metre, as the simplest and most obvious type of rhythm in language, has held ground from the very earliest times and it is not, therefore, surprising that this should come to be taken by many as synonymous with rhythm in human speech. In fact the growth of rhythm has always been from the simplest to the more elaborate types. In primitive music there was only one instrument and the notes were very few, perhaps not more than three. In primitive dancing the movements were few and restricted, a very simple formula like *one—two* or *one—two—three* being followed.

Early human speech was roughly rhythmic, the rhythm being of the simplest type. We find specimens in old Anglo-Saxon poetry, in old Sanskrit. The rough rhythms later developed into regular verse obeying well-defined rules of metre. Everywhere we find that the development of verse comes earlier than that of prose. The causes might be many. It might be easier to remember verse on account of the sound effects ; but perhaps the more intimate cause was the inability to rise to a purely rational level, to think systematically and

consistently for prolonged periods. Thought would, therefore, tend to move in a circle and the charm of metre will have a too decided influence in regulating the course of thought and speech. 'Rhyme' would thus be the master over 'reason' and at times even pass muster for 'reason.' In many ancient maxims and proverbs rhyme is after all the only reason. It is therefore quite natural that verse should precede prose in the order of development.

LINES OF DEVELOPMENT

The development of verse, practically in all languages, follows a fairly regular course. The earliest verse is rough, jolting with no very strict regularity. At first the demand is for greater regularity, for with the advancement of civilisation and culture the ear becomes more and more sensitive, and any disparity between the constituent units of verse jars on the ear. Gradually, definite principles and rules evolve and a system of prosody comes into vogue. In accordance with tradition, with natural taste and sometimes with various influences all about, prosody happens to be based upon some particular phonetic characteristic of the syllable to the disregard of others. This is due to a desire to create an order out of confusion, to follow a system and fix a standard to guide and to judge by. At this stage the taste is not sufficiently developed to perceive that there may be order and rhythm even where there is a wide diversity in character between the constituent units. There is only one idea of order and that is the recurrence of a simple and obvious pattern; there is only one idea of rhythm and that is one of uniformity.

But gradually a change comes on. The strict regularity and uniformity begins to pall on the ear, the monotony of repetition comes to disgust. Why this should be so, it is hard to explain. It may be that a desire for novelty is a fundamental tendency of our artistic self. So long as disorder is usual, the

desire for regularity is a primary motive and the achievement of regularity is felt as a triumph and thrills the mind. But later on when conditions have changed and a certain principle of regularity has been accepted and uniformly followed, it fails to give the old pleasure and thrill. The mind is then eager for "fresh woods and pastures new." Regularity is then felt as a clog hampering the free expression of the artistic consciousness. Within its narrow groove the mind cannot move with sufficient freedom for adequate self-expression. But the revolt against regularity cannot mean a return to the old state of things, to crude irregularity. It means a search after variety—variety, that other element in all successful artistic creation, serving as a woof across the warp of regularity. Variety should not be mistaken for mere want of or lapse from regularity. It indicates a quality symbolical of the exact emotional realisation of the moment. Its form is not defined, it adapts freely to the continual changes in the emotional expression. The problem of prosody in the later stages of development is one of associating regularity with variety.

This has been done in several ways. The commonest and easiest is to associate variety with the stanza. The couplet was perhaps the earliest stanza-type, the charm of rhyme easily leads to its invention and popularity. So long as rhyme held the ear, the simplest method of suggesting variety was by manipulation of a rhyme-scheme. An expectation of a particular rhyme might be deferred for a longer or shorter period, or gratified either immediately or according to a regular plan that gives the impression of an elaborate artistic pattern; or sometimes a rhyme might occur in the least expected situation or manner. Almost an infinity of variations in the stanza-scheme is possible and can be made the vehicle for the expression of an artistic variety.

But the impression of variety in the stanza is rather diffused, and hence some other ways of associating variety with metre have been sought and tried. Some were derived from

the old irregularity of primitive metres, strange though it may seem. The rough, irregular verses of more primitive periods did not have the constituent units (like measures) always uniform. The measures were only proximately equal or similar. The successive lines also were not always equal, nor did they always follow the same pattern. This supplied the suggestion for other methods for the introduction of variety in metres. One—perhaps an older—was to have successive lines of varying length, with a varying number of measures, —the variation being always regulated by the requirements of changes in the emotional key.

There is the other method—substitution of measures of different but similar type. This is a device used commonly in qualitative metrical systems, but in quantitative systems also the device has some, though restricted, scope. In quantitative systems of metres, the measures, of course, should be co-equal, but while maintaining the equality of measures it may be possible to introduce variety in the collocation of syllables of different value and quality within the measure. Sometimes it may be possible to have a sort of rhythmic harmony based on the qualitative variation between successive syllables or verse-units in the longer metrical group. This is the quality that impresses us in the older Sanskrit metres.

The search for variety has also led to the discovery of an important form of verse, *viz.*, blank verse. The name is rather unfortunate as it gives simply a negative idea, *viz.*, the absence of rhyme. But blank verse, as we know and have it to-day, is to be distinguished from other types of verse by a number of characteristics, of which one of the less important is the absence of rhyme. Blank verse of this type should not be confused with unrhymed verse well known in older times. Many of the old Sanskrit metres are unrhymed but essentially they are not of the same type as modern blank verse. Modern blank verse derives its effect from a careful variation of pauses and their positions, from a studied introduction of two separate motifs in the

arrangements of metrical pauses and of sense pauses, from drawing out the sense from line to line, from the construction of 'verse-paragraphs.' Curious as it may seem, modern blank verse is sometimes associated even with rhyme, thus showing that the absence of rhyme is only an important accident and not the *sine qua non* of true blank verse.

But in more recent times the search for variety has led to further experiments with new possible principles of the construction of verse. This is due to greater insistence on the principle of variety to symbolise the emotional movement. Gradually life is growing more complex for us and human emotions growing to be more subtle and various. A conformity to the principle of regularity seems to be more and more out of keeping with the modern temperament, its hypnotic quality is less to our taste. But at the same time 'mere prose' is not deemed sufficient, for it is felt that such ordinary prose is too analytical of thought, it fails to preserve its synthetic quality, it lacks in what is called 'form,' grace and finish; it fails to provide a suitable artistic vehicle for our realisations. Attempts have, therefore, been made to combine the qualities of verse with the freedom of prose, or at least to rid verse of some of its usual concomitant features so that it may be at greater liberty to trace the subtlety and variety of emotional experience to-day; attempts have also been made that prose may be invested with some of the artistic qualities generally found in verse, that its constitution and its evolution may be governed not by the rules of a cold analytical rationality but the requirements of an artistic impulse that overmasters and controls the conventions of prose, including those regarding the choice and arrangement of words. It is why we have so much of 'free verse' and 'prose-verse' to-day.

A REVIEW OF METRICAL DEVELOPMENT IN BENGALI

At this stage before we proceed to discuss the nature of free verse or prose-verse in Bengali it will be useful to have a short

historical review of metrical tendencies in Bengali. Such a review will help us to understand the working of the deeper forces that have led to modern free verse or prose-verse in Bengali and to fix their fundamental characteristics.

The earliest Bengali prosody was, as we find from the extant specimens to-day, wedded to two metrical patterns that came to be known later as Payar and Lachari (or Tripadi later on). We need not here go into any discussion regarding the ancestry of these two types but their almost absolute predominance during the early days of Bengali prosody is striking. Bengali prosody has, of course, been always quantitative and based on moric equivalence of measures. Measures of 8 morae are the most widely in use at the earliest stage and later on measures of 6 morae also came into vogue. Measures of 4 morae also were popular but at present we cannot be sure when these measures came into vogue, whether they have a longer ancestry than measures of 8 or 6 morae. However, a study of the early history of Bengali prosody reveals a persistent effort to reach regularity. At first the various sorts of syllables and the varying modes of their pronunciation according to the difference of mood, tone, emotion present certain problems. Principles derived from varying sources, habits native and habits cultural, the influence of indigenous dialects and of the parent language, influences of the classical language and of the purely native speech, seem to clash with one another. There is uncertainty and hesitation with regard to the system of quantities and ultimately the quantity of a particular syllable can only be determined with reference to the requirements of the rhythm and the pattern. The pattern and the fundamental rhythmic principles, however, persist and regulate all questions regarding quantity in verse.

But this meant a good deal of manipulation. All sorts of jugglery with stresses, glides, vocal drawls have to be made in order to reduce the verses to the metrical pattern. This was an unsatisfactory state of things, and the manipulations and modifications of speech jarred on the ear. All experiments in

versification for a few centuries were, therefore, directed to the polishing off of the roughness. In the meantime phonological changes in the language were also going on and modes of speech came to change and be well-nigh fixed and standardised. At the end of the mediaeval period Bengali metres came to acquire the necessary degree of smoothness and regularity and the climax of the process is reached in the works of Bharatchandra.

But shortly after this achievement a new tendency made itself felt. At the beginning of the 19th Century English education began to spread in Bengal and the influence of English thought and literature created a stir in every department of life in Bengal. The influence was felt also in Bengali prosody. Persistent efforts were made to relieve the monotone of Bharatchandra's versification in a variety of ways. Some tried to go back to the principles and metres of Sanskrit prosody. But they started with a fundamental misconception. They should have realised that the habit and principles of pronunciation in Bengali were radically different from those in Sanskrit and that prosody must always be based on the accustomed modes of reading and pronunciation in a language. Much of the efforts of these experimenters was, therefore, only wasted, and their compositions fell still-born. But here and there a few more discerning amongst them, like Madanmohan Tarkalankar, succeeded within a comparatively narrow sphere. They picked out a few Sanskrit metres compatible with the elasticity of Bengali pronunciation, and were successful. But these attempts were at best only *tours de force* and their scope was exceedingly limited. These experimenters had not after all discovered the right principles to associate variety with Bengali versification.

Experiments, however, continued to be made. At first the most fruitful line seemed to be to amplify the scope of prosody by diversifying the form of the stanza. Previously the couplet with uniform lines in dimeters or trimeters was practically the one type of stanza recognised. Bharatchandra had introduced some novelties by writing tetrameters with and

without internal rhymes, but he had always used uniform lines in a stanza. But now prosodists began to construct new types of stanzas of an almost endless variety. Besides couplets there were triplets, quatrains, quintettes, sextains and other polyverse stanzas; the rhyme-schemes became more intricate; the constituent lines in a stanza were not always of uniform length, but varied according to the requirements of the pattern. In fact invention of intricate and beautiful patterns for the stanza was a feature of prosodic activity throughout the whole of 19th Century.

Towards the end of 19th Century a new style was introduced in Bengali prosody and that was also a means of adding an element of variety. It was the modern moric style, in which every closed syllable proper is taken as equivalent to 2 morae. The frequency of closed syllables in Bengali made this particular style beautiful in rhythmic effect, for a pleasant variety was introduced on account of the free association of syllables of two recognised values.

But the most important and striking device for the association of variety with metre was the invention and perfection of blank verse by Madhusudan Dutt. Madhusudan's blank verse was a perfect adaptation of Milton's blank verse in Bengali, and what might appear to be only an exotic struck root and came to stay and flourish. There has perhaps been no more revolutionary change in the history of Bengali prosody. Variety was the staple quality of Madhusudan's blank verse and a metrical regularity was only a subordinate feature. Thus the age-old ideal of metrics underwent a change. There was a free divorce between the sense-pause or the breath-pause and the metrical pause. The sense-groups or the breath-groups were of various lengths, and their succession and mutual proportion came to provide a means for indicating the predominating emotion, while the metrical groups were there to provide a basic element of regularity. It was frankly an addition of a new dimension to verse.

The influence of Madhusudan's blank verse has been immense. As in English, blank verse has come to be the vehicle of all long and narrative poems in Bengali. Subsequently several poets have tried to modify the characteristics to some extent. Some have tried to find out a *via media* between the principles of the older traditional verse and the new blank verse. But, on the whole, though the novelties introduced by them may be said to have been successful, these have to some extent taken away from the force and expressive character of Madhusudan's blank verse. In the hands of the great dramatist Girischandra, blank verse underwent still further changes, the element of metrical regularity became weaker. It was this amended blank verse that made a poetic drama in Bengali possible. A further development out of blank verse was the verse of Rabindranath's *Balākā* that has come to be so popular in recent years and accepted as the most pliable instrument in the hands of a modern poet in giving adequate expression to the complex emotions of to-day.

TRANSITION TO PROSE RHYTHM

This brief outline of the history of prosodic experiments in Bengali is meant to show how in Bengali the trend has always been from irregularity to regularity and from regularity to variety. The artistic influence exerted by metre is always dependent upon two elements—a basis of regularity and a super-structure of variety. We have noticed how in the recent stages of its history Bengali prosody has attached more and more importance to the element of variety. When once the higher functions of rhythm are realised, mere regularity is felt as a hindrance to the adequate symbolising of the emotional movement and efforts are made to avoid the restraint of a regular metre as far as possible.

But how far is this practicable? Here a momentous issue confronts us. Can verse discard the trammels of regularity

altogether? Can it simply follow the waves of emotion and retain its character and—what is more important—its hold upon the mind? It is really a question of approximation to prose. Through successive stages in the development of the element of variety in verse an approximation to prose had really been going on. Prose is free speech, free from the necessity of conforming to any pattern; prose directly follows the sequences of thought, and if thought is influenced and charged with emotion, it is capable of directly tracing the movements of human emotion. The only possible difficulty is the necessity of abiding by the convention of syntax, but as prose allows a good deal of inversion, syntax does not impose any rigidity. Prose thus would *prima facie* be better capable of directly expressing emotion, though of course this would not be true of any prose but only of artistic and emotional prose. This freedom was to some extent introduced in verse when Madhusudan divorced the sense-pause and the metrical pause in his blank verse. The successive sense-groups in Madhusudan's blank verse have not their lengths determined by any pattern but simply by the movement of emotion at the moment. A further stage in the realisation of this freedom is reached in the metre of *Balākā* where the metrical pause as such, distinct from the sense-pause, is absent and the metrical groups and the sense-groups are identical, although the measures are of diverse lengths and their combinations into lines are most various according to the fluctuations of emotion. But in the metre of *Balākā* there are conditions peculiar to verse imposed. The structure of the measures follows the conventions of verse; there is rhyme; there is always the haunting suggestion of a pattern. The metre of *Balākā* sounds a note of revolt; but it is yet a subject in the domains of traditional verse. It is not the emancipated citizen of a free land where all mutual association is purely voluntary and nothing is dictated by a ruling authority. Thus a further step onwards was felt necessary. Some new mode had to be discovered, and expression had to be made spontaneously respon-

sive to the complexity, variety and seeming capriciousness of human emotion.

There is perhaps another motive. It is to break down the barrier between normal speech and the language of emotion. The language of poetry is admittedly an artificial one ; the very desire to make it artistic has resulted in making it artificial. Snatches of verse, a line or two, or a few measures may be perfect prose in construction or diction, but they are so only when separated from the context. Moreover, a considerable section of verse can never be exactly like prose in all respects. Similarly, a few phrases of common speech may be shewn to have metrical characteristics. But a considerable amount of common speech is never metrical. If any one should deliberately affect metrical habits in his common speech, he will be only received with derision. There is always a gulf between verse and normal human speech. Artistic emotion has thus been sequestered from common human life and reserved only for the rare, unusual and abnormal moments. The demand to-day is to bridge over the gulf. Artistic experience and its perceptible symbol, rhythm, are to be brought down from the heights and acclimatised to dwell with common humanity in the lowly valleys of life. Rhythm should be fully compatible with the usual modes of human speech.

How is this to be effected ? Can rhythm cut off its affiliations with metre and identify itself completely with prose ?

CHAPTER II

PROSE and VERSE

Our discussions in the last chapter have led us to an examination of the nature and possibilities of prose. Before deciding any questions regarding prose rhythm and its capacity to express the varying emotions of the human mind, we have to enquire into the essential character and constitution of prose.

Though like M. Jourdain in Moliere's *Le Bourgeois Gentilhomme* we are always speaking prose and obeying its rules and following its rhythm without being aware of it, good prose or finished prose or artistic prose is a rarity. It is rarer than good and correct verse. The growth and development of prose is everywhere a much later phenomenon than the progress and systematisation of versification. This is especially true in the history of Bengali language and literature. Versification in Bengali has a recorded history of about one thousand years ; on the other hand, there is hardly any prose worth the name until we come down to the 19th Century. We are not to suppose that people did not use prose earlier, but it must have been too crude, too undeveloped to find a place in literature. A literary venture is always meant to have a wider and longer appeal, and hence a finish and grace of form is always insisted on. In the earlier stages of literary history the qualities necessary for the culture of prose are not sufficiently developed amongst the people. Prose is the language of reason. When the rational faculties are predominant over impulse, passion and emotion, over a love of mere music and pattern in the language, when they act in co-ordination and are sufficiently developed to take in the varied experience of life and the involutions of the world of thought within its span, we expect prose to grow and develop.

These conditions are present only in a later and much advanced stage in the history of a people. The sequence of words in a sentence is due to a logical necessity as directed by the conventions of thought and expression peculiar to a people and connected with their psychology and traditions. This consistent and logical mentality is only possible with a people at a more advanced stage in their history.

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A piece of composition in prose can be divided and subdivided into paragraphs, sentences and phrases. Each of these constituents has a logical character. A paragraph is a body of reasoned and systematised thought,—whether this be narrative, descriptive or argumentative. A sentence stands for either a logical proposition, though stated according to the conventions of syntax and rhetoric, or a group of such propositions closely allied. The molecule of prose composition is, however, the phrase, though at times the function of the phrase may be performed by a single word. A phrase is either a logical term or a syncategorematic group of words conveying a distinct sense and serving as a term-former. The business of the prose writer is to frame phrases and knit them into sentences indicative of logical judgments. Prose is thus pre-eminently rational in outlook and character. It is essentially analytic of thought, though it is not without its constructive aspect. The outlook of prose is realistic, its main function is to give a rational account of the perceptions of the human mind. Prose is thus self-conscious, it cannot absolutely lose itself in the passing emotion. The structure of prose gives, therefore, an impression of firmness and solidity. Verse may soar, may aspire to ethereal heights; prose, however, is “of the earth, earthy.” The divisions in a prose sentence are regulated by rational considerations; the pause always occurs at the end of some phrase, between two separate sense-groups.

The fundamental difference between prose and verse in respect of structural principles is well brought out by a French

critic, M. Albert Thibaudet. "In prose each phrase creates for itself the law of its rhythm, whilst in verse each phrase creates for itself a personal reason for submitting to a law which already existed." The molecule of human speech is, of course, the phrase, both in prose and in verse, though in verse the phrase is called the measure or foot or sometimes the section or the bar. Every such phrase must have a rhythmic quality on account of the distribution of syllables of different quality within it. In prose it is demanded that the rhythm should be subordinated to sense; on the other hand, in verse it is a rhythmic pattern that is paramount and it is the business of the poet to find words, phrases and suitable contents for them to match the pattern that symbolises the emotion. Verse primarily goes on weaving patterns—patterns in the structure of the measures, patterns in the constitution of the line and of the stanza. Verse is not directly concerned with the words and phrases as such or their intellectual contents. And that is why it is possible to have nonsense verse and metrical mnemonics. Verse manipulates the ultimate unit of human speech—the syllable, and concerns itself with certain aspects of it like quantity or quality; it prescribes certain suitable standards of quality or quantity and grades the syllables according to these standards and forms basic patterns with such variously graded and denominated syllables. These patterns are all-important in verse. It is on account of this that in verse the metrical pauses and sense-pauses do not necessarily go together; so that metrical groups and breath-groups or sense-groups sometimes overlap. Moreover, in verse a metrical division may cut across a word, —a fact sufficient to point out the unimportance of words as such in the structure of verse.

Metre thus has an entity distinctly its own, and is not merely a concomitant feature of particular literary pieces. It exercises a direct influence upon human speech and has attributes and qualities specific to it. When associated with language, it brings a new quality to bear upon it, transforms its character

and practically liquefies its hard knotty constitution. Metrical language is not a mosaic of words and phrases; it is speech with flow and motion, obeying its own law and drawing along words and phrases in the sweep of its current.

On the other hand, prose is primarily concerned with the intellectual content of human speech; its ultimate unit is the word and not the syllable; its measure is the phrase, the smaller sense-group within the sentence, and not the foot or the bar, not a collocation of syllables after a given pattern. In fact there is no pattern in prose independent of words and their meanings; the order of words in the phrase and in the sentence is not determined by any independent pattern but the requirements of logical sequence according to the popular habit and convention and ultimately the psychology of the race.

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We have to notice here a question of very great importance. We noted towards the end of the last chapter that with increasing knowledge and mastery in technique there has been growing a persistent demand to widen the scope of rhythm in human speech, to bridge over the gulf between prose and verse. In fact there have been some who have maintained that fundamentally there is only one art of writing, and that the distinction between prose and verse is only superficial and accidental. The real problem before a writer is how to express himself adequately, and when he succeeds it is hardly worth discussing whether his success has been achieved through verse or through prose. Adequate expression may be possible sometimes through the medium of verse, sometimes of prose, and more often through what is neither verse nor prose. In fact the maintenance of the artificial distinction between prose and verse has simply gathered a mass of useless and meaningless conventions, and restrained free and natural expression. When the artistic mind works freely and unhampered by any conventions, it creates its own style and rhythm that may or

may not be exactly those of either verse or prose. It may extend the boundaries of prose and of verse, and take liberties with the recognised conventions in either, till it seems that "prose is verse and verse is prose." It is—some will point out—towards this consummation that literature has been moving of late as indicated in the frank innovation of prose rhythm in metrical composition and the popularity of free verse. A stage will ultimately come when the conventions of prose and of verse will be disregarded or forgotten, and men will learn to express themselves spontaneously in rhythm without caring for any fixed rules or formulæ.

The views outlined above raise questions too big to be threshed out here. We cannot here discuss whether ultimately human speech would not be like the angels', transparent and yet profound and vast in import, beautiful and natural but with no rigid features to be isolated and marked. Nor can we attempt here any discussion as to the uniformity of the principles of rhetoric, diction, the standard of literary beauty and of success in prose and verse, and whether any conclusions can be drawn therefrom as to the possible identity in rhythm between verse and prose. It is enough for us to recognise that there is to-day a real difference between verse and prose, in rhythm as much as in the mental attitude behind it, and perhaps even in the technique of style. The basic difference has been well noted in the dictum of M. Thibaudet that we have stated and explained already in this chapter. Even when there is a sentence that can be read and construed either as prose or as verse and may be said to belong to a neutral region between the two, there is a real and unmistakable difference between its reading, understanding and appreciation as prose and as verse. There is a subtle hypnotic influence in the recognition of a passage or even of a line as verse, and the hypnosis brings about a radical transformation in the consciousness: there is a new attitude of the mind, a fresh standard of values, and a new set of motives. This can be easily

illustrated from any nonsense verse, or from such a telling line as—

Cover her face, mine eyes dazzle, she died young (Webster). It should be noticed that the line is so telling only in its verse-context, and taken by itself as only a sentence in common prose, its charm is largely lost. In spite of all that Wordsworth might object to it, even such a stanza as this—

I put my hat upon my head
And walked into the strand,
And there I met another man
Whose hat was in his hand.

—derives an artistic quality simply out of its metrical character. We should remember that there are stanzas in Cowper's *John Gilpin* with no better intellectual content than the above and there are many comic poems that have deliberately been kept on a pedestrian level in respect of diction and thought and derive their appeal out of this very feature.

Are we, therefore, suggesting that there are two separate tendencies in human speech—one for prose and another for poetry? This is a big question. Speech was given to man to indicate his thoughts surely. But are we not trying to do more? The cynic declares that it was given to man to conceal his thoughts. That paradoxical maxim implies at least that it is open to man to employ his speech to a chosen end, and that self-expression is not its only function. We are often using speech to impress other people in particular ways to produce a deliberate artistic effect. We do not always try, and even if we try, we do not succeed in communicating our thoughts to others, and actually speech is very largely influenced by acquired habits, conventions, the examples and precepts from others and an innate love for particular forms and patterns.

Then there is the other question—what after all do we mean by 'thoughts.'? Do we mean all mind-contents? And what are mind-contents? Logical judgments logically connected? Are not mental processes often illogical and is not

the mind packed up with all sorts of contradictions, inconsistencies and fallacies? Is not the mind replete with crude, ill-formed, vague notions that do not reach the status of logical concepts and are variously huddled or scattered in the mind without any pretension to order or system? In other words, are not the mind-contents more irrational than rational, and does not the rational process imply the control of mental process by one particular faculty? Then, emotions and vague longings also are a part of our mental outfit, and perhaps we might predicate the same of the end-less, infinitely changing and evolving forms of beauty, "the huge cloudy symbols of a high romance," that people the brain and motivate it so variously. When these questions are considered one can easily see the difficulty of deciding whether verse or prose is the natural language of man. It will perhaps be truer to say that neither is natural, and the nearest approximation to it is to be found only in the ejaculation of

An infant crying in the night,
An infant crying for the light,
With no language but a cry.

All language is artificial, especially of literary composition whether in prose or in verse. It is directed to achieve certain chosen ends and adopts rules and conventions calculated to attain them. All that we are justified in stating is that, with the advancement of modern civilisation and culture with its sophisticating influence, the rational and logical element is growing to be more prominent, while earlier they were more influenced by other elements and did not so much come to the fore. Even verse, therefore, tends to approximate towards prose to-day. But we are yet in a stage of transition. It is not always that the rational element is uppermost in us and we find prose a convenient medium. In the present stage of human evolution we find that there are two different tendencies and two different moods,—one for prose, the other for poetry.

CHAPTER III

THE RHYTHM OF PROSE

Since the days of Aristotle the existence of a prose rhythm has been recognised. But its character and its conditions were not defined or analysed by Aristotle. Speaking of Greek prose he only remarks that prose also should have rhythm but it should not be metrical, and that the rhythm of prose should not be strict, it should go only up to a certain point. These remarks, though suggestive, are rather vague and do not enable us to form definite conclusions on the subject of prose rhythm. The subject has, however, been pursued later by industrious students of Latin and other languages, and a clearer notion of the character of prose rhythm in those languages can be formed. Credit must be given to the schools of rhetoric in the ancient world for their meticulous study of the style of the great masters of prose in old Greek and Latin, and the outcome was the discovery of a few rough principles and methods. It was noticed, for example, that certain sequences of feet were favoured particularly towards the end of sentences, and at certain other emphatic positions. These special cadences were called *cursus* and they were tabulated and rehearsed by industrious students of Latin. The influence of these cadences is found in the Vulgate Bible, and extends to the English Bible which owes not a little of its beauty of style to the Latin version.

Prose rhythm in English has a long history, and many of the great writers in English prose have been adepts with the rhythm of prose. The subject has been studied by a number of critics, and Saintsbury in his *History of English Prose Rhythm* has brought out the rhythmic quality of a large number of passages. While, however, the rhythmical character of these

extracts is obvious, it is more difficult to define the essentials of prose rhythm. Saintsbury, Clark, Shelly, Elton, McColl, Tempest and others who have studied the subject are not quite agreed on these fundamental questions, and none of them have really ventured to give a thorough-going and comprehensive theory on the subject. There are even some who are simply content with describing a passage as rhythmic and refuse to go further to examine the constitution of the rhythm. A few features of prose rhythm are, however, recognised generally by authorities on the subject.

- (1) PROSE RHYTHM IS NOT METRICAL ; THAT IS TO SAY, THE RHYTHM OF PROSE IS NOT BASED UPON REPETITION OF FEET OR MEASURES OF ANY ONE PARTICULAR PATTERN.

This, of course, is a view as old as Aristotle. Though negative in character, it has at least the merit of clearing the ground and removing sundry misconceptions.

Saintsbury and others have pointed out that there are rhythmised prose passages that would scan almost as regularly as any poetry. This, however, does not weaken our conclusion. We have seen that in poetry metrical regularity may be associated with a variety in the succession of sense-groups, *i.e.*, with a suggestion of prose rhythm. In fact verse often has to gain on account of the mastery of metre over patent unmetrical tendencies. A parallel case is also possible in prose. True prose rhythm may simultaneously be present with a sort of regularity analogous to that of verse, though this regularity is never very consistent and does not extend "beyond a certain point." But the rhythmic appeal of such a passage is based upon a different element altogether, metricality being an accidental or intentional grace.

There may be passages in prose in which the only rhythmic feature is a more or less perfect metricality, which can be shewn to be composed of feet or measures of verse almost entirely. These are not really the passages marked by true prose rhythm

and the pleasure derived from them is something different from what we have in following a prose passage in its characteristic rhythm. Imperfect or affected metricality does not give the rhythm of prose.

- (2) A UNIT OF PROSE RHYTHM—LET US CALL IT A PROSE MEASURE—MUST CONSIST OF A NUMBER OF INTEGRAL WORDS.

We have considered the point already when we explained that prose being pre-eminently rational, it is made up really of phrases. A word cannot be cut up by a division of measures in prose.

- (3) THE RHYTHMIC TYPES IN PROSE ARE OF GREATER VARIETY THAN IN VERSE.

The patterns in the structure of measures of verse must be of certain prescribed forms only. The number of components of a measure in verse is definitely limited, the usual number being 2 or 3,—the basic numbers in all mathematical proportions, the primary odd and even numbers. The arrangements of different components also should follow certain prescribed rhythmic movements, usually the sharply falling or the sharply rising or the level. It appears, therefore, that verse-rhythm is always simple, the product of one single impulse or tendency, mathematically representable by a linear equation. Complicated movements due to the combination of two or more forces are not countenanced in verse. We shall, therefore, be justified in holding that verse is the expression of the simple, primary or basic elements of life, of the fundamental emotions of the human heart.

When compared with verse, prose appears to be far more complicated and wider in range. The number of components of a prose measure may be 4 or 5 or even a greater number; in fact there is no *a priori* limit to the number, the only restriction being due to the limited strength of the vocal organs.

Moreover, prose admits movements of greater variety and complexity, and so the component units of a measure can be

arranged in a larger number of ways. In prose, besides the movements allowed in verse, other movements like the slowly rising, the slowly falling and the waved are frequently met with. In fact these latter are more characteristic of prose and are more frequently met with. Of these again we might speak of the waved rhythm in all its variety of actual forms as being the specific and characteristic rhythm of prose. Of course, this is not and need not be exclusively used in prose, for *it is in the very nature of prose to admit variety and not to submit entirely to the influence of one single pattern*, a tendency characteristic of all kinds of verse. The waved rhythm is not too impulsive, it always tends to come back to the normal ; it is the complex product of a number of different, well-nigh divergent forces ; it seeks to harmonise discordant elements, it seeks to preserve a balance. Strength along with self-restraint, a dynamic force under the control of a wise and far-seeing sanity, a desire to be "true to the kindred points of heaven and home,"—these appear to mark the waved rhythm, and these also are the marks of the mood of artistic prose.

(4) THE SEQUENCE OF PROSE-MEASURES IS GOVERNED BY THE PRINCIPLE OF VARIETY, THE PARTICULAR SEQUENCE IN ANY CASE BEING REGULATED BY THE EMOTIONAL MOOD.

It is, however, possible to classify these sequences to a great extent and discover a few systems of gradation. These gradations may follow any of the rhythmic types referred to in the previous paragraph, but as the measures in a bigger rhythmic group like the sentence may be larger in number, the possible forms are also much greater in number and variety. It may be noticed that certain authors have their respective preferences in this matter and like to revert to them frequently. But at times, in prose less marked by a strict rhythm, these sequences may be noticed only in most emphatic positions as the beginning or the end of a sentence or a clause or a conveniently smaller section of a too big sentence.

Rarely in certain authors it may be possible to find a principle of gradation even in a paragraph, the component sentences or its sections being arranged according to a rhythmic plan.

We are here more concerned with the rhythm of Bengali prose, and we shall find that these general features hold good there as in English or any other prose. Of course, each of these features derives a particular character on account of the peculiar properties of Bengali speech and language.

Experts have noted that Bengali possesses natural qualities and tendencies on account of which it easily lends itself to rhythmic treatment. Bengali prose also can be strikingly rhythmic in the hands of a really capable writer. Although the history of Bengali literary prose is comparatively short, yet there have been a number of authors who have displayed very fine command of prose rhythm. The degree of success is not in all cases the same. Moreover, a few attain to a standard of excellence only in stray purple patches here and there and do not write rhythmic prose sustained through an entire composition. If the capacity to write rhythmic prose consistently is so rare, it is chiefly due to the want of sufficient study and discussion on the subject.

Before proceeding any further we ought to be warned against a possible confusion. It has been noted by philologists that there is a natural rhythm in all Bengali speech, that is to say, any Bengali speech can be analysed into sense-groups of almost equal length and marked off from each other by head-stress and some sort of a minor pause. This is a rhythm inseparable from our usual speech habits and the capacity of our vocal organs. But it is not this rhythm that we are going to discuss, but something more deliberate and artistic, responsive to the waves of emotion in us, and serving as a perceptible symbol. These two rhythms are not, however, at cross-purposes like the two rhythmic motifs found in Miltonic blank verse. The artistic rhythm is fully compatible with the common, and

we might say that it is only the more defined and complexioned form of the commoner variety. Yet the warning is needful lest we should mistake a mere habit of marking time for artistic rhythmised expression. The commoner rhythm only outlines a limit within which artistic rhythm must find its scope.

The artistic prose rhythm is not even found in all good prose. One may express himself adequately enough for certain purposes, and not succeed in creating an artistic harmony of sounds. There is, for instance, explanatory prose ; the prose of ordinary exposition ; the prose of common dialogue. Rhythmised prose is emotive, an emotion of a sustained character must always be present. It is not, of course, suggested that true prose rhythm cannot be found in works with descriptive contents. But the contents must be coloured by emotion, although there is to be no predominance of the emotional element over the rational as in verse, and there is to be no triumph of a pattern *over* expression. Any sort of artistic rhythm must be a symbol and a medium for some sort of sustained emotion—for what rhetoricians in Sanskrit call *Rasa*. In artistic and rhythmised prose there is the intellectual element in the foreground, there is the rational presentation of facts and ideas according to the modes of normal speech, but at the same time there is a subtle emotional colouring. It is like the effect produced by “the barred clouds” of an evening that—

“bloom the soft-dying day,
And touch the stubble plains with rosy hue.”

But although rhythmised prose is emotive, all emotive prose is not necessarily rhythmised. We may, for example, refer to a passage like this—

যাকে বাড়িতে হইবে তাকে কড়া হইলে চলিবে না, প্রাণ সেই জন্ত কোমল। প্রাণ জিনিষটা অপূর্ণতার মধ্যে পূর্ণতার ব্যঞ্জনা। সেই ব্যঞ্জনা যেই শেষ হইয়া যায়, অর্থাৎ যখন, যা-আছে কেবল মাত্র তাই আছে, তার চেয়ে আরো-কিছুর আভাস নাই তখন মৃত্যুতে সমস্তটা কড়া হইয়া ওঠে, তখন লাল নীল সকল রঙই থাকিতে পারে কেবল প্রাণের রঙ থাকে না।

শরতের রঙটি প্রাণের রঙ। অর্থাৎ তাহা কাঁচা, বড়ো নরম। রৌদ্রটি কাঁচা সোনা, সবুজটি কচি, নীলটি তাজা। এই জন্ত শরতে নাড়া দেয় আমাদের প্রাণকে, যেমন বর্ষায় নাড়া দেয় আমাদের ভিতর-মহলের হৃদয়কে, যেমন বসন্তে নাড়া দেয় আমাদের বাহির-মহলের যৌবনকে।

(শরৎ—রবীন্দ্রনাথ ঠাকুর)

A passage like this may stir our emotions, but its appeal is due to the ideas presented, the images employed or the associations of the words used. It is dependent on the understanding of the passage and not on the perception of any special phonetic qualities. Prose rhythm though connected with the meaning of words (as we noted in Chapter II), is after all only another form of speech rhythm and is dependent on the phonetic features of its component units and the total sound effects due to their harmonising.

CHAPTER IV

PROSE RHYTHM IN BENGALI

The best way to understand the character of prose rhythm in Bengali is to take a few typical passages of undoubted rhythmic quality, analyse their features and discuss the constitution of rhythm in them. Selection of the passages given below and of the authors represented in them is purely arbitrary; there is no suggestion that these are the only or the best writers of rhythmic prose in Bengali or that these are the best passages available.

Our first passage is from the opening scene in *Chandragupta*, a well-known play by the famous dramatist and poet, Dwijendralal Ray.

সত্য সেলুকস! কি বিচিত্র এই দেশ! দিনে প্রচণ্ড সূর্য্য এর গাঢ়-নীল আকাশ
পুড়িয়ে দিয়ে যায়; আর রাত্রিকালে শুভ্র চন্দ্রমা এসে তাকে স্নিগ্ধ জ্যোৎস্নায় স্নান করিয়ে
দেয়! ভাসমী রাত্রে অগণ্য উজ্জল জ্যোতিঃপুঞ্জ যখন এর আকাশ বলমল করে, আমি
বিস্মিত আতঙ্কে চেয়ে থাকি। প্রাবৃটে ঘনকুম্ভ মেঘরাশি গুরুগম্ভীর গর্জনে প্রকাণ্ড দৈত্য-
সৈন্তের মত এর আকাশ ছেয়ে আসে, আমি নির্বাক হয়ে দাঁড়িয়ে দেখি। এর অল্লেখ্য
ধবল ভূয়ারমৌলি নীল হিমাদ্রি স্থিরভাবে দাঁড়িয়ে আছে। এর বিশাল নদ-নদী ফেনিল উচ্ছ্বাসে
উদ্যম বেগে ছুটেছে। এর মরুভূমি বিরাট স্বেচ্ছাচারের মত তপ্ত বালুরাশি নিয়ে খেলা করছে।

There can be little question regarding the rhythmic character of the passage above. It is emotive, it makes a direct appeal to a sense of form and beauty, and the appeal has quite as much to do with its sound as with its meaning.

Our first act in analysis will be to find out the component units of rhythm. We have noted already that the unit of prose rhythm is the phrase, and that several phrases combine to constitute a larger rhythmic group, a sentence (or a section of a sentence). The phrase corresponds to the foot or measure and the sentence to the line in verse.

Each phrase being a sense-group is separated from its neighbour by a minor pause, and each sentence from the next by a major pause. If we can place these pauses correctly, we shall be able to see how the rhythm of such a passage is constituted. The passage may accordingly be thus scanned—(The mark | indicates a minor and the mark || a major pause.)

- 1st sentence : ¹সত্য ²সেলুক্স | ¹কি ²বিচিত্র | ¹এই ²দেশ ||
- 2nd „ : ¹দিনে ²প্রচণ্ড ³সূর্য | ¹এর ²গাঢ়-নীল ³আকাশ | ¹পুড়িয়ে ²দিয়ে ³যায় ||
- 3rd „ : ¹আর ²রাত্রি ³কালে | ¹শুভ্র ²চন্দ্রমা ³এসে | ¹তাকে ²নিম্ন ³জ্যোৎস্নায় |
¹মান ²করিয়ে ³দেয় ||
- 4th „ : ¹তামসী ²রাত্রে | ¹অগণ্য ²উজ্জ্বল ³জ্যোতিঃপুঞ্জ | ¹যখন ²এর ³আকাশ |
¹বলমল ²করে ||
- 5th „ : (আমি) | ¹বিস্মিত ²আতঙ্কে | ¹চেষ্টে ²থাকি ||
- 6th „ : ¹(প্রারটে) | ¹ঘনক্লম্ব ²মেঘরাশি | ¹গুরু ²গস্তীর ³গর্জনে |
¹প্রকাণ্ড ²দৈত্য ³সৈন্তের ⁴মত | ¹এর ²আকাশ ³ছেয়ে ⁴আসে ||
- 7th „ : (আমি) | ¹নির্বাক ²হয়ে | ¹দাঁড়িয়ে ²দেখি ||
- 8th „ : ¹(এর) | ¹অব্র ²ভেদী | ¹ধবল ²তুষার ³মৌলি | ¹নীল ²হিমাদ্রি |
¹স্থির ²ভাবে | ¹দাঁড়িয়ে ²আছে ||
- 9th „ : ¹(এর) | ¹বিশাল ²নদনদী | ¹ফেনিল ²উচ্ছ্বাসে |
¹উদ্দাম ²বেগে | ¹(ছুটেছে) ||
- 10th „ : ¹এর ²মক্ভূমি | ¹বিরাহি ²স্বৈচ্ছাচারের ³মত |
¹তপ্ত ²বালুরাশি ³নিয়ে | ¹খেলা ²কর্ছে ||

Had the passage been in verse, each of the measures (or, at least, the staple measure) would have contained a fixed quantity, i.e., a uniform number of morae. It is quite clear that

the measures here are diverse in quantity, and they do not always resemble measures of verse in their internal structure. The length of the measures varies between 2 morae and 11 (or 12).^{*} In verse we do not have so short or so long measures, the limits in verse being between 4 and 10. The various measures in a sentence are neither co-equal nor arranged according to any definite plan. In the 4th sentence the lengths of successive measures are 5, 10, 8, 6; in the 6th 3, 8, 8, 11, 9. There is neither any definite plan with regard to the number of measures in a line: the number varies from 3 to 6. There is an even more striking distinction from verse in the structure of the measures. Each of the measures here is composed of beats as in Bengali verse. Each beat is either a single integral word or a short compound of such words. Each beat is marked off by a stress at the beginning though this stress need not be strong or emphatic. The beats in the measures in the passage above are indicated by numerals on their heads. Now in verse the beats in a measure should be either co-equal or arranged according to a rising or falling rhythm; in a single measure there must be only 2 or 3 beats; and in a measure of 3 beats at least two of the beats are to be co-equal. But in the passage above none of these principles is adhered to. We get measures with 4 beats as in the 6th sentence. The arrangement of beats is often according to a waved pattern, the longest beat occurring in the middle as in a large number of measures like the 1st and the 2nd in the second sentence; there are measures of 3 beats in which the beats are all unequal as the 2nd measure in the second sentence.

Let us now see if we can derive any positive conclusions with regard to the character of Bengali prose rhythm. Some of them we have already stated.

* The quantitative system in prose is the same as in the traditional or masculine metrical style. Each syllable counts as one mora but a closed syllable at the end of a word counts as two. A syllable, especially a closed syllable, in an emphatic position at the commencement of a beat is optionally doubled into two morae.

(A) THE UNIT OF PROSE RHYTHM IS A PHRASE, A PROSE MEASURE.

(B) THE PROSE MEASURE CONSISTS OF BEATS.

(C) THE BEATS IN A MEASURE MAY BE OF ANY NUMBER, GENERALLY UP TO 4 OR 5.

(D) A BEAT MAY BE OF GREATER LENGTH THAN IN VERSE, CONTAINING UP TO 6 MORAE OR MORE.

(E) THE RHYTHMIC MOVEMENT IN THE MEASURE MAY BE OF VARIOUS TYPES,—LEVEL, RISING, FALLING OR WAVED.

It is perhaps necessary to make a distinction between rising, falling and waved rhythms of various forms.

It may be found convenient to use the terms of Greek prosody that have passed into all discussions of prosodic systems in European languages. We give here a tabular list.

Measures with 2 beats

(i) Iambus (— —), a rising measure; *e.g.*, সত্য সেন্ধকাস্ (2+4), কি বিচিত্র (1+3). We may distinguish a sub-variety called 'slowly rising' in which the two beats differ only by 1 morae; *e.g.*, বিশাল নদনদী (3+4).

(ii) Trochee (— —), a falling measure; *e.g.*, নির্ঝাক হ'য়ে (3+2).

(iii) Pyrrhic (— —) and Spondee (— —); both have level rhythms, the Pyrrhic being the lighter and Spondee the heavier. স্থিরভাবে (2+2), অত্রভেদী (2+2) are instances of the Pyrrhic, and ষনকৃষ্ণ মেঘরাশি (4+4) of the Spondee.

Measures with 3 beats

(i) Amphibrach (— — —), a waved measure; *e.g.*, শুভ চন্দ্রমা এসে (2+3+2).

(ii) Anapaest (— — —), a sharply rising measure; *e.g.*, অগণ্য উজ্জল জ্যোতিঃপুঞ্জ (3+3+4).

(iii) Anti-bacchic (— — —), a gently rising measure; *e.g.*, গুরু গভীর গর্জনে (2+3+3).

(iv) Bacchic (— — —), a sharply falling measure; *e.g.*,
ধবল তুষার মৌলি.

* (v) Cretic (— — —), a reverse waved measure; *e.g.*, বখন
এর আকাশ (3+2+3).

(vi) Dactyl (— — —), a gently falling measure; *e.g.*, খুড়িয়ে
দিয়ে যায় (3+2+2).

(vii) Molossus (— — —), a level measure; *e.g.*, ধনের বিলাসে
লালিত (3+3+3)

(viii) Tribrach (— — —), a level measure; *e.g.*, আর
রাত্রিকালে (2+2+2), হুঃখ আর মৃত্যু (2+2+2).

There are measures with 3 beats in which all the beats are unequal. These cannot be named after any of the Greek feet.

(ix) Quasi-amphibrach, a waved measure; *e.g.*,
এর গাঢ়নীর আকাশ (2+4+3).

(x) A quickly rising measure; *e.g.*, সেই উদ্ধত ঐশ্বর্যের (2+3+4).

(xi) A reverse waved measure; *e.g.*, ছর্যোগ এবং ছর্ষিপাক
(3+2+4).

(xii) A waved measure; *e.g.*, চিত্তকে জাগাইয়া তোল (3+4+2).

(xiii) A reverse waved measure (quasi-cretic); *e.g.*, তিরস্কার
এবং সম্মান (4+2+3).

(xiv) A quickly falling measure; *e.g.*, আমাদের বিরাম নাই (4+3+2).

Measures with 4 beats

According to the laws of permutation, the possible number of such measures is very large. They are too many to be conveniently tabulated here and nomenclated. The more important are the paeon (*e.g.*, — — — —) and the epitrite (— — — —) with their several forms, antispast (— — — —), and ionic with its two forms (— — — —, — — — —). As in Bengali the beats may be of more than two varieties of length, the analogous forms would be actually larger. For us it will be sufficient to note the general rhythmic quality, rising or falling or level or waved.

* The types marked with an asterisk are not found in verse.

Measures of five beats have never been definitely catalogued, the whole set of them being called dochmiacs in Greek prosody. Practically they have no place in prosody anywhere, but in prose they have to be considered. But even in prose their use is rather infrequent. As usual it will be enough to note only the general rhythmic quality of any such measure where it occurs.

Now to return to our tentative inferences regarding the character of Bengali prose rhythm. From what we have noted, we may make a further enunciation.

(F) THE MOST FREQUENT MEASURES IN RHYTHMED PROSE ARE THOSE WITH A RISING OR A WAVED RHYTHM AT THE BEGINNING OR THE MIDDLE OF A SENTENCE AND THOSE WITH A FALLING OR LEVEL RHYTHM AT THE END.

In the passage above there are 40 measures. Of them 6 are measures with a single beat and, therefore, no rhythmic quality pertains to them. Unless there be at least two components, there can be no sense of rhythm. We may look upon them as hyper-rhythmic, and when they occur at the commencement of a sentence they may be said to be instances of anacrusis, serving as a sort of "take-off" or "push-off" for the rhythm.

There remain 34 measures proper. Of them 8 have rising, 8 have falling, 9 have waved and 9 have level rhythm. The proportion of the four varieties might, therefore, be said to be almost equal. But we have to note that of the 8 falling measures 5 occur at the ends of sentences. Now the end of the sentence is a position of special importance in prose. It practically corresponds to the "cadence" of classical verse, and the total aesthetic impression largely depends on it. As we have noted in an earlier chapter, prose seeks to maintain a balance and return to the normal. Hence in the concluding measure the rhythmic tendency in the earlier measures is often reversed. So the cadence in the concluding measures ought to be separately considered. If we do so, we find that of the 10 end-measures, 5 have falling, 3 have level and 2 have waved

rhythm. The two waved measures have again a falling action at the close. We may, therefore, infer that at the end of a sentence the appropriate rhythms are the falling and the level. It may further be noted that where the level measures occur there is also a sense of fall on account of the longer and heavier measures preceding. A shorter, lighter measure, preferably with a falling action, is the appropriate end-measure.

Of the 24 other measures, 8 are rising, 3 are falling, 7 are waved and 6 are level. It may be noticed that the level measures at the beginning or the middle of sentences occur usually as a prelude to a rising or waved measure or as a sequel to a waved measure. They might therefore be considered as a part of a larger waved action. We shall therefore be justified in saying that the waved and the rising measures are appropriate at the beginning and the middle of sentences.

When we consider that prose rhythm favours rising action at the beginning, waved in the middle, and falling at the end, we may conclude that there is a fundamental rhythmic tendency in prose like the basic melody in a musical composition, and that this has a parabolic action.

(G) THE NUMBER OF BEATS IN SUCCESSIVE MEASURES IS REGULATED BY A RHYTHMIC MATHEMATICAL PATTERN.

This is where rhythmic prose differs principally from common prose. In common prose no system in this respect is observed, on the other hand, rhythmic prose appears to follow a fairly strict standard. In the passage under consideration we find that the measures in the various sentences have the following number of beats :

1st sentence :—	2, 2, 2.
2nd „	3, 3, 3.
3rd „	3, 3, 3, 3.
4th „	2, 3, 3, 2.
5th „	1, 2, 2.*
6th „	1, 2, 3, 4, 4.*

7th sentence :—	1, 2, 2.*
8th ,,	1, 2, 3, 2, 2.*
9th ,,	1, 2, 2, 2, 1.
10th ,,	2, 3, 3, 2.

It is easy to notice that there are a few patterns here. The numbers seem to be arranged according to some mathematical series. In the first three sentences there is a uniformity in the number of beats in the successive measures. In the others a parabolic scheme has been followed. This is apparent in the 4th, 9th and 10th sentences, but not so in the remaining three. But if we turn to the actual measures we shall notice that the last measure in each of these sentences, marked by asterisks, is shorter or lighter than the previous measure and thus a falling action is suggested, and so the parabolic scheme is followed. In the last measure in the 8th sentence the same effect is produced by the change from level rhythm.

(H) THE RHYTHMIC MOVEMENT ALWAYS WORKS UP TO OR DOWN FROM A CLIMACTIC PHRASE.

We have marked these phrases in the scanned passage. They mark the climax of the sentence from the standpoint of both meaning and phonetic quality. They have the greatest length or the largest number of beats or more heavy syllables (*i.e.*, syllables with compound consonants or shortened closed syllables) than the other measures. These climactic measures occur usually somewhere in the middle of the sentences; but they may occur also at the beginning or at the end of a sentence, should the prevailing emotion so require.

(I) THE SUCCESSION OF MEASURES IN A SENTENCE IS REGULATED NOT MERELY BY THE SERIALITY IN THE NUMBER OF BEATS IN EACH AND THEIR GRADATION ACCORDING TO QUANTITY AND WEIGHT IN A PARABOLIC SCHEME, BUT ALSO BY A PRINCIPLE OF SEQUENCE OF RHYTHMIC PATTERNS.

We have already noted some of these patterns and broadly

classified them as rising, falling, level and waved. We may perhaps further subdivide the rising measures into the gently rising, the sharply rising, the slowly rising, the quickly rising, and simple rising types, and make the same subdivisions among the falling measures. The waved measures may again be subdivided into the parabolic and the reverse parabolic, according as the measure starts with a rising or a falling action. However, it seems that there are certain principles regarding the harmonious succession of these types. It may be possible for us to distinguish a few sequences like the *cursus* in Latin.

Cursus (i) Rising→Level→Falling.

This is perhaps the simplest, illustrated in the 9th sentence in the scanned passage above.

Cursus (ii) Rising→Waved→Level→Falling.

Illustrated partially in the 10th sentence in the scanned passage.

Cursus (iii) Level→Rising→Waved→Level→Falling.

Illustrated partially in the 6th sentence in the scanned passage. The most general form seems to be :

Cursus (iv) Rising↔Waved↔Level↔Waved↔Falling.

The fourth *cursus* gives the most elaborate sequence. One link in the chain may be omitted at will, but perhaps never two consecutive links. It is also always open to have successive measures of the same pattern, provided the other regulations for succession enunciated in the articles (*G*) and (*H*) are followed.

It will be noticed that in one or two cases in the above passage these principles of *cursus* have been disregarded. We may, however, say with Aristotle that the rhythm of prose cannot be and should not be very strict, considering that prose is after all *free* speech,—speech free from the necessity of adhering to super-imposed patterns. Perhaps a few break-aways here and there do not matter and even give a zest of surprise when once the rhythm is firmly established. Sticklers for strict principles might perhaps have their fastidious complaints removed by the explanation that in the first measure of the 4th

sentence where there is an apparent lapse from the principles of cursus, the actual rhythm is level, not falling, for *রাত্রে* is to be read as equivalent to 3 morae, and so there has been no lapse actually.

We do not propose to examine the rhythm of the whole paragraph. The sentences have different numbers of measures in them varying from 3 to 6, and are shorter and longer, according to the complexity of thought and the intensity of emotion. There is probably no rhythmized pattern in them.

The enunciations above do not teach a man how to write rhythmic prose. They only point out a few conditions to be obeyed, certain limits to be observed by a writer of rhythmic prose. Abundant scope is left to him for variations within them, and he should know how to introduce suitable varieties to symbolise the emotions. We may just suggest that a gathering intensity and force is symbolised by a rising rhythm, a thrill by a waved rhythm, a rapture by a level rhythm, serenity by a falling rhythm. But these are too vague suggestions, and like a melodist playing on the notes on the octave, the writer of true prose rhythm should know how to exploit the rhythmic groupings and successions, the gradations and the cursus to supreme artistic ends.

* * * * *

Let us now refer to another passage and scan it to see how far the provisional conclusions reached above hold good there.

যে-ব্যক্তি ও যে-জাতি আপন শক্তি ও ধনসম্পদকেই জগতের সর্বাপেক্ষা শ্রেয় বলিয়া
অন্ধ হইয়া উঠিয়াছে, তাহাকে প্রলয়ের মধ্যে যখন এক মুহূর্তে জাগাইয়া তুলিবে, তখন হে
রুদ্ধ, সেই উক্ত ঐশ্বর্যের বিদীর্ণ প্রাচীর ভেদ করিয়া তোমার যে-জ্যোতি বিকীর্ণ হইবে
তাহাকে আমরা যেন সৌভাগ্য বলিয়া জানিতে পারি, এবং যে-ব্যক্তি ও যে-জাতি আপন
শক্তি ও সম্পদকে একেবারেই অবিশ্বাস করিয়া জড়তা, দৈন্ত ও অপমানের মধ্যে নিষ্কর্ষ
অসাড় হইয়া পড়িয়া আছে, তাহাকে যখন ত্রুর্ভিক্ষ ও মারী ও প্রবলের অবিচার আঘাতের
পর আঘাতে অস্থি মজ্জায় কম্পাবিত করিয়া তুলিবে তখন তোমার সেই দুঃসহ ত্রুর্দিনকে
আমরা যেন সমস্ত জীবন সমর্পণ করিয়া সম্মান করি এবং তোমার সেই ভীষণ আবির্ভাবের

সম্মুখে দাঁড়াইয়া যেন বলিতে পারি—আবিরাবীর্ষ এধি—রুদ্র যন্তে দক্ষিণঃ মুখং তেন মাং
পাহি নিতাম্।

(দ্বঃখ—রবীন্দ্রনাথ ঠাকুর)

This is a most eloquent and highly rhythmized passage, and in its total impression is far more overpowering than the extract from D. L. Ray. Let us scan the passage to see whether we can find a clue to the secret of its appeal.

- 1st Group :— ¹যে-ব্যক্তি ও ²যে-জাতি | ¹আপন ²শক্তি ও ³ধনসম্পদকেই |
¹জগতের ²সর্বাপেক্ষা ³শ্রেয় ⁴বলিয়া | ¹অন্ধ ²হইয়া ³উঠিয়াছে, (IV)
- 2nd „ ¹তাহাকে | ¹প্রলয়ের ²মধ্যে | ¹যখন ²এক ³মুহুর্তে | ¹জাগাইয়া ²তুলিবে, (IV)
- 3rd „ ¹তখন | ¹হে ²রুদ্র | ¹সেই ²উদ্ধত ³ঐশ্বর্যের | ¹বিদীর্ণ ²প্রাচীর ³ভেদ ⁴করিয়া |
¹তোমার ²যে-জ্যোতি | ³বিকীর্ণ ⁴হইবে, (VI)
- 4th „ ¹তাহাকে | ¹আমরা ²যেন | ¹সৌভাগ্য ²বলিয়া | ¹জানিতে ²পারি (IV)
- 5th „ (এবং) | ¹যে-ব্যক্তি ও ²যে-জাতি | ¹আপন ²শক্তি ও ³সম্পদকে |
¹একেবারেই ²অবিশ্বাস ³করিয়া | ¹জড়তা ²দৈন্ত্র ও ³অসম্মানের ⁴মধ্যে |
¹নির্জীব ²অসাড় ³হইয়া | ¹পড়িয়া ²আছে, (VI)
- 6th „ ¹তাহাকে ²যখন | ¹হুর্ভিক্ষ ও ²মারী | ¹ও ²প্রবলের ³অবিচার |
¹আঘাতের ²পর ³আঘাতে | ¹অস্থি ²মজ্জায় ³কম্পাঘিত | ¹করিয়া ²তুলিবে (VI)
- 7th „ ¹তখন ²তোমার | ¹সেই ²হুঃসহ ³হুর্দ্বিন্দকে | ¹আমরা ²যেন | ¹সমস্ত ²জীবন |
¹সমর্পণ ²করিয়া | ¹সন্ধান ²করি, (VI)
- 8th „ (এবং) | ¹তোমার ²সেই | ¹ভীষণ ²আবির্ভাবের ³সম্মুখে |
¹দাঁড়াইয়া ²যেন | ¹বলিতে ²পারি (IV)

The Roman numerals at the end indicate the number of measures in each group.

The connective এবং (in the 5th and 8th groups) is outside the rhythmical scheme and hence is marked off by brackets.

The last sentence in the extract is a quotation from Sanskrit and is outside the purview of our discussions here.

We find that the rules provisionally framed by us are generally adhered to in this passage. We have called the larger divisions of the paragraph simply groups, and not sentences. The sentences here are too long and each contains several larger rhythmic divisions. It may be convenient to consider each division as a group of measures. The measures and beats are thus distributed :—

1st Group :—	2, 3, 4, 3	(IV)	} 1st sentence.
2nd „	1, 2, 3, 2	(IV)	
3rd „	1, 2, 3, 4, 3, 2	(VI)	
4th „	1, 2, 2, 2*	(IV)	
5th „	(1), 2, 3, 3, 4, 3, 2	(VI)	} 2nd sentence.
6th „	2, 2, 2, 3, 3, 2	(VI)	
7th „	2, 3, 2, 2, 2, 2*	(VI)	
8th „	(1), 2, 3, 2, 2*	(IV)	

We notice that in each group there is a mathematical seriality in the numbers of beats in successive measures. The numbers always appear to be arranged in a parabolic order. When there seems to be a lapse from this principle, we shall find on referring to the actual measures that the lapse is only apparent but not real. For the measures are to be differentiated from each other not alone by the number of beats in them but also by their total quantity, the frequency of heavy syllables and the rhythmic action in them. In all the groups we find that there is a rising movement at the beginning until there is a climax reached. The climactic phrases have as usual been underlined. Thereafter there commences a falling action evidenced either by a diminution in the number of beats in a measure, or by a diminution in the total quantity of a measure, or by an infrequency in the number of heavy syllables, or by a change in the rhythmic quality of a measure. Thus the principle of parabolic structure is adhered to.

Next if we consider the rhythmic types in the various measures and their succession, our conclusions appear on the whole to be justifiable. The rhythmic arrangements in the various groups are as follows :—

- | | |
|--------------|--|
| 1st Group :— | Falling, Rising, Waved, Rising. |
| 2nd „ | Falling, Reverse waved, Falling. |
| 3rd „ | Rising, Rising, Waved, Reverse waved, Level. |
| 4th „ | Falling, Level, Falling. |
| 5th „ | Falling, Level, Falling, Reverse waved, Level,
Falling. |
| 6th „ | Level, Falling, Level, Reverse waved, Rising,
Level. |
| 7th „ | Level, Rising, Falling, Level, Falling, Falling. |
| 8th „ | Falling, Waved, Falling, Falling. |

The concluding measures have generally falling rhythm and sometimes a level rhythm. The principles of cursus also have generally been obeyed, except for the fact that a falling measure sometimes occurs at the beginning. Here probably we find another principle at work. There can occasionally be a case of “substitution” in the cursus as in qualitative verse. We know that in an iambic line it is possible to substitute a trochee for an iambus, especially at the beginning of the line. Such an occasional substitution enhances the aesthetic appeal of the verse. We come across practically an analogous situation here. The occurrence of a falling rhythm just at the commencement of the 1st group immediately before a rising measure appears to violate the principles of normal sequence. A level or a rising measure would have been more appropriate in that position. Yet the substitution of a falling measure in those positions appears only to heighten the rhythmic effect. This, we think, is due to another principle that can be thus enunciated—

A FALLING MEASURE MAY BE SUBSTITUTED FOR ANOTHER MEASURE JUST BEFORE A VERY LONG AND HEAVY MEASURE WITH A SHARP RISING ACTION.

If we turn to the second measure in the 1st group we see that it is much longer and heavier than the preceding measure and involves a sharp rising action. The beats in the 2nd measure of the 1st group are arranged as 3+3+5. The sharp rise from a beat of 3 morae to one of 5 when the latter involves a larger number of contracted closed syllables, requires a previous relaxation. In fact the principle enunciated above is only an application of a principle in dynamics, *viz.*, of a deliberate retardation before a sudden and quick acceleration.

In a passage like this there is also what we may call paragraph-rhythm. The groups are connected and there is a progress of rhythm from group to group. The first four groups compose one sentence, and we find there is the usual parabolic structure in them when we consider the number of measures and the total quantity in each measure. There is a slight fall perhaps in passing from the 1st group to the 2nd but this fall only serves as a prelude to the long and heavy 3rd group. In the second sentence there is a gentle falling action, the successive groups being shorter and less heavy. When the paragraph is taken as a whole we find there are spurts of sharp rising action followed by falling until the falling rhythm asserts itself and a lull is reached practically.

* * * * * *

It may now be possible to compare the two passages from the two different authors in respect of their rhythmic characteristics. Of course the emotions are different. The first passage is inspired by a sense of admiration and breathes a feeling of rapture. The second passage is full of a spirit of prophetic denunciation of human transgressions and breathes a note of thrilled and awe-struck resignation to the Supreme Will. The first struts and poses; the second soars and sweeps.

How far are these emotional characteristics linked up with distinctive rhythmic features? We notice that in the first passage the pace is slower than in the second; the number of

measures in a group is generally less than in the second. Moreover in the second passage the sentence is not completed, a halt is not sounded even at the end of a group; the sense is drawn out from group to group so that, practically speaking, a very large number of measures, almost twenty, have to be gone through with before a full and final halt is reached. There is thus a realisation of well-nigh breathless emotion in the second passage. Generally speaking an average measure in the second passage is longer but proportionately lighter than an average measure in the first. The first passage may, therefore, be said to strut with heavy steps, and the second to race with swift, nimble steps.

Perhaps it is possible to go even further. It may be possible to find the character of an author's genius, his inner tendencies reflected in the rhythm of the prose that he writes. Prose, of course, is free speech, and an author is under no obligation to obey strictly a formula when he writes prose. The diversities of prose style, therefore, ought to be a clearer indication of the essential distinction between the genius of one man and another. As rhythm is a most important feature of emotive prose, prose rhythm ought to provide a sure clue to the intimate emotional life of an author. Can we find any such clues here? There are various points of distinction between the two passages that we have considered, but are these distinctions only linked to the emotional contents of the two passages? Perhaps they go even further. We find that in the 1st passage, out of 24 measures only 3 have falling rhythm, if we leave out the special cases of the final measures; in the 2nd passage out of 29 such measures as many as 10 have falling rhythm. So while in the 1st passage the proportion is $12\frac{1}{2}\%$, in the second it is $34\frac{1}{2}\%$ —almost triple the proportion. Again when we compare the proportion of rising measures we find that in the first case it is 8 out of 24, *i.e.*, 33% and in the second case it is 5 out of 29, *i.e.*, 17%; that is to say, in the second passage it is only half the proportion in the first passage. We further notice that

in the second passage the majority of the groups begin with a falling measure, and quite a large number both begin and end with a falling measure. From these facts can we guess anything about the predilections of their respective authors? The author of the second passage—Rabindranath—has a predilection for the falling measure and a disinclination for the rising. Is this not the mark of a femininity in his essential nature? Are not the supple and quick changes in the cursus, the elastic strength and the ultra-emotional, almost hysteric, breathlessness in the passage also indicative of the same quality? On the other hand, does not the first passage strike us as more masculine, if somewhat heavy and ostentatious, even tawdry?

There are not many authors who have written rhythmized prose of a sustained character through a long passage. In most authors we come across patches or shreds of rhythm here and there, especially when there is an emotional transfiguration of the style and a real artistic consciousness inspires it. In some others again there are suggestions of rhythm here and there, but very quickly the rhythm breaks down. Among the few who have written very consistently in rhythmized prose, we should especially mention Kaliprasanna Ghosh. We make no apology for quoting and discussing a short passage from his essay on ঐহিক অমরতা.

1st Group :— পৃথিবীর এক দৃশ্য | স্মৃতিকা গৃহ, (II)

2nd „ আর এক দৃশ্য | শ্মশান—! (II)

3rd „ পূর্বতে উচ্চতা আছে | নদীর তরঙ্গে শোভা আছে |

• নদী-প্রবাহ-সম্মিলিত সমুদ্রের বক্ষে | অনির্বচনীয় বিস্তার আছে; (IV)

4th „ ফুলে মধু | ফুলভারা বনত | লতাদেহে মাধুরী ॥ (III)

5th „ (এবং) | লতার আকর্ষণবিসর্পি-বেষ্টনবদ্ধ | অচল পাদপে ।

গরিমার এক | অপূর্ব বিলাসভঙ্গি আছে ॥ (IV)

This is also an extract that confirms most of our provisional conclusions. Just one or two features call for some comment. The last measure in the second group is a catalectic one, and not a measure of one beat in the proper sense. The place of the second beat is taken by a period of silence, and this has quite a dramatic effectiveness in striking home the tragic impression of the last word. A more important point is the occurrence of beats of 6 morae. A beat may contain as many as 6, perhaps 7, morae. But there is, we think, some kind of restriction against the juxtaposition of beats of various lengths, and we might hazard the enunciation of another rule—

TWO SUCCESSIVE BEATS IN THE SAME MEASURE SHOULD NOT DIFFER IN LENGTH BY MORE THAN 3 MORAE.

We notice that the cursus here is of a very simple type. The measures are only of 3 varieties: level, waved and falling. There is no room here for purely rising measures or of measures with a reverse waved rhythm. The last measures invariably end with a falling action. At the same time the passage makes large use of long beats and long measures, and there is often a very sudden rise or fall in length and weight from one measure to another. The avoidance of the rising rhythm and a greater frequency of the falling rhythm indicate an absence of flighty imaginativeness, a tendency to return to the normal as quickly as possible, an argumentative tone, a desire to come down to the reader's level. Along with that there is evidence of a conscious strength but a theatricality of manner and an attitudinising tendency strike a rather false note.

Let us take another passage—this time one from Sarat Chandra Chatterji's SRIKANTA. It can thus be scanned—

1st Group :—¹কয়েক ²মুহূর্ত্তেই | ¹ঘনাক্ষকারে | ¹সম্মুখ ²এবং ³পশ্চাৎ |
¹লেপিয়া ²একাকার ³হইয়া ⁴গেল ॥ (IV)

2nd „ ¹রহিল শুধু | ²দক্ষিণ ও ³বামে | ¹সীমান্তরাল-²প্রসারিত |
¹বিপুল ²উদাম ³জলশ্রোত ॥ (IV)

3rd Group :—(এবং) ¹তাহারই ²উপর | ¹তীব্র ²গতিশীলা | ¹এই ²ক্ষুদ্র ³তরঙ্গটি |

(এবং) ¹কিশোর ²বয়স্ক ³ছুটি ⁴বালক ॥ (IV)

4th ,, প্রকৃতি ²দেবীর | ¹সেই ²অপরিমেয় | ¹গম্ভীর ²রূপ | ¹উপলব্ধি ²করিবার ।

¹বয়স ²তাহা ³নহে ॥ (V)

5th ,, (কিন্তু) ¹সে ²কথা | ¹আমি ²আজও | ¹ভুলিতে ²পারি ³নাই ॥ (III)

6th ,, ¹বায়ুলেশ ²হীন | ¹নিষ্কম্প ²নিস্তরু | ¹নিঃসঙ্গ ²নিশীথিনীর | ¹সে ²যেন এক |

¹বিরোট্ ²কালীমূর্তি ॥ (V)

The passage above conforms to the canons already enunciated. One interesting point is regarding the division of long compound words into beats. As far as possible the integral words should be undivided but when there is a loss of a syllable or a phonetic change in the final or the initial syllables due to two words coalescing, the practice is to take as much as would represent the first word fully in the first beat and the remainder in the second. Thus ঘন + অন্ধকারে = ঘনান্ধকারে = ঘনান্-ধকারে ; so সীমান্-তরাল.

It will make our ideas clearer to turn now to a passage in which a rhythmic motion is suggested, but quickly the rhythm breaks down. The extract is from Bankimchandra's Kapalkundala.

অপূর্ণ মূর্তি ! সেই গম্ভীর-নাদী বারিধি-তীরে সৈকত-ভূমে অস্পষ্ট সন্ধ্যালোকে দাঁড়াইয়া
অপূর্ণ রমণী মূর্তি ! কেশভার—অবেলী-সংবদ্ধ, সংসর্পিত, রাশীকৃত, আশুল্ফ-লব্ধিত কেশভার ;
তদগ্রে দেহরত্ন, যেন চিত্রপটের উপর চিত্র দেখা যাইতেছে ।

The initial phrase suggests the key-note—a slow falling rhythm marks it. The next sentence begins well and the suggested rhythm is amplified through a number of phrases thus :—

সেই | ¹গম্ভীর ²নাদী | ¹বারিধি ²তীরে | ¹সৈকত ²ভূমে

The falling note has been accentuated and by the time we have reached the last phrase, the only possible end of the sentence seems to be in a short measure with a level or falling rhythm. The end of the sentence is in a phrase with a slow

falling rhythm—অপূর্ব রমণী মূর্তি, and it might be a fitting finale but its greater length is not in keeping with the movement persisted through the greater portion of the sentence. If however the movement in the earlier part of the sentence had been suitably varied by the deft accommodation of rising and waved measures, and the total capacity of each measure were also skilfully amplified both in the number of beats and in length, then the last phrase might be quite appropriate in its position. Then again the penultimate phrase with its sudden increase in length and rising rhythm does not at all fit in in that position. But if the whole sentence is read in a staccato manner

সেই | গভীর^১ নাদী | বারিধি-তীরে^২ | সৈকত^১ ভূমে | অম্পষ্ট^১ সন্ধ্যালোকে | দাঁড়াইয়া | অপূর্ব^১
রমণীমূর্তি^{১ ২}

then a closer approximation to rhythm might be made but even then the fourth phrase does not quite fit in with the previous continued rhythm. If it be omitted then, of course, the rhythm is preserved.

The second sentence is correct :—

অবেণী সংবদ্ধ^{১ ২} | সংস্পর্শিত, রাশীকৃত^১ | আ গুল্ফ-লম্বিত^২ | কেশভার^{১ ২}

The third sentence begins with a rising measure—তদগ্রে দেহরত্ন, but all expectations of rhythm are belied by the subsequent portion : যেন | চিত্রপটের উপর | চিত্র | দেখা যাইতেছে । Obviously here is no rhythm, the essential conditions being disregarded.

There is little need to pile up instances of unrhythmic prose, it is too frequent. Yet to make our points clear, it may be useful to analyse at least one such passage.

এই ক্ষণ | কালিদাস | উজ্জয়িনীর প্রাসাদ-শিখর হইতে | যে আষাঢ়ের মেঘ | দেখিয়া-
ছিলেন || আশ্রয়ও | সেই মেঘ | দেখিয়াছি, || ইতিমধ্যে | পরিবর্তমান মানুষের ইতিহাস |
তাহাকে | স্পর্শ করে নাই ।

It is easy to notice how in the above passage each phrase practically stands by itself and does not 'flow' into the next by a natural process under the impulse of an artistic emotion. When we come to a detailed consideration of the features, we

find that the rules already enunciated regarding seriality in the numbers of beats, gradation of measures, parabolic structure, proper sequence of rhythmic types, have been mostly violated.

Now to sum up our remarks. We have ventured to enunciate a few fundamental principles of prose rhythm in Bengali. They are based upon our own observation and appreciation of compositions in prose that have best impressed us on account of their rhythmic quality. We are not aware of any previous work done in this field, and so had not the advantage of comparing our views with those of other students of the subject. Even in English the workers have been few, and their labours have not so far led to an agreed body of doctrines and rules on the subject. It is, therefore, with a good deal of diffidence that the rules enunciated here are given. We expect that there will be disagreement with regard to some of them. Individual perceptions of prose rhythm must widely vary. A consistent rhythmic quality is rare, and in prose lapses from correct rhythm must be very common and difficult to avoid. Generalisations are therefore most risky, and our conclusions, specially on the vexed and baffling question of *cursus*, are only tentative. They do, we hope, open lines along which further study may continue, leading ultimately to their revision. We believe that the question of quantity is not so exacting in prose as in verse, and students of prose rhythm should devote more attention to the quality of measures. We hope that ultimately it will be possible to distinguish various rhythmic types in prose and lay down their essentials just as it has been possible to distinguish various melodies in music and discover the essential features in them. It may also be possible to find a connection between the individual genius of an author and the rhythmic types preferred by him. Some pioneer work in this connection has been attempted here, and it can only be hoped that it will open up a vast and uncharted region to enquiry and research.

CHAPTER V

THE RHYTHM OF FREE VERSE AND PROSE-VERSE

There have been people who have found neither prose nor verse exactly suited to express their artistic realisations. Verse demands a complete surrender to a rhythmic pattern; it is the rhythmic idea and its symbol, the pattern, that entirely dominate the poet and direct his choice of words, their arrangements; even the very images and thought-contents of the poem are suggested by the rhythmic pattern as it evolves and unfolds itself. There are some whose realisations keep more close to a hard and rough reality, who are ever awake to the sharp edges and corners in it and cannot therefore entirely submit to the liquid flow of verse rhythm. Then again there are people who are fundamentally rational in outlook and in their mode of thought. Even though they may be seized by a strong artistic emotion and feel themselves and their inner being transformed under the influence, they cannot discard the prose manner and habit entirely.

For such people some fresh medium for expression has to be sought and found out. Prose is not sufficient for the purpose. Prose remains on a different level altogether, it is too intellectual and predominantly realistic. Prose has its heights, of course; prose also can be an inspired flow of language and it may also be permeated by a rhythmic quality. But it is something quite different from verse. The very idea of rhythm in prose is something different from verse rhythm; prose rhythm is dependent on variety and verse rhythm on uniformity; prose rhythm seeks to stimulate the mind variously as it treads the firm ground of everyday reality, verse rhythm seeks to hypnotise the mind so that it may soar into an empyrean beyond the hard world of

actualities. Prose can move on with graceful steps, but it cannot flow with the care-free smoothness of verse. Again even in rhythmized prose the units must be phrases usual in common speech, obeying the laws of syntax and all the conventions of normal logical language. But what the people we have referred to want is something different. They do not have the mood for prose; they have been emotionally transfigured. The prose style is simply jarring to them in their new consciousness. Their mood is really that of poetry. Yet they cannot bring themselves to submit to the special conventions of poetic composition, they cannot shake off the ties that connect them with the world of normal speech. So they seek some sort of an intermediate medium between prose and verse. It will retain at least some of the characteristics and modes of prose; it will at the same time be essentially poetic in its tendency, it will emancipate the mind from the world of prose reality and enable it to soar into the aesthetic world of poetry.

As a result of this quest several intermediate forms have been invented and tried. Amongst them we have free verse and prose-verse, whose features we now proceed to discuss.

The two terms 'free verse' and 'prose-verse' are sometimes used as synonymous. But according to us such use is wrong and due to a confusion between two really distinct forms. Of course both are intermediate types between verse and prose, and both retain a few and discard the other characteristics of verse in favour of those taken from prose. But the exact features of verse retained or those of prose assimilated are not the same in free verse and in prose-verse.

WHAT IS FREE VERSE?

Free verse, as the name implies, is verse freed from some of the conventions and regulations usual in verse. But after all it is verse, it impresses the mind as something essentially akin to poetic composition; it is really different from the

language of prose although it may flaunt certain features characteristic of prose. Now the fundamental characteristic of verse is that it bases itself upon the quality or quantity of syllables, grades syllables according to certain conventions, forms patterns or measures with these syllables according to certain fundamental rhythmic ideals, and weaves these feet into lines according to a uniform plan. The measures of verse are constituted independently of words and phrases, and are to be looked upon simply as groups of syllables collocated according to a certain rhythmic idea. They are the molecules of verse, and the hypnosis of verse is due to the repetition of one particular type amongst them, or to the association of more than one type according to an obvious uniform plan.

The revolt of free verse against the conventions of common regular verse is directed against this hypnosis, against the practice of repeating one particular measure or obeying the requirements of a simple set plan in selecting and arranging the measures. Free verse does not discard the use of the usual verse-measures, but only claims the liberty of arranging and associating them freely according to the variations in emotion. Free verse does not fix upon one particular pattern answering to the general mood and seek to emphasise it by repetition ; it seeks to bring out into full relief the complexity of progressive emotional experience and to trace the infinite variety of successive waves of feeling. But it accepts the conventions and regulations of verse with regard to the constitution of each particular measure. In free verse there is after all the genuine poetic outlook and attitude ; hence free verse, like any other forms of verse, is selective, accepting only certain syllable-groups as fulfilling its rhythmic conditions and thus eligible for use as measures of verse. It is also based on syllabic quality and quantity, and is regulated by the same principles of their grouping within the measure as those in verse. But it freely associates the various types of verse-measures without following any patterns.

FREE VERSE IN ENGLISH

Free verse has been quite popular in recent years in French and in English. France led the way and the influence of French *vers libre* has extended to English. Many of the important poets in recent English literature have written largely and successfully in free verse, though it does not appear yet to bid fair to oust the older forms of versification from literature. D. H. Lawrence, T. S. Eliot and the Sitwells have been amongst the best known writers of free verse in English. Below we give an extract from T. S. Eliot's famous poem 'Journey of the Magi' in illustration of our points.

All this was a long time ago, I remember,
 And I would do it again, but set down
 This set down
 This : were we led all that way for
 Birth or Death? There was a Birth, certainly,
 We had evidence and no doubt. I had seen birth and death,
 But had thought they were different ; this Birth was
 Hard and bitter agony for us, like Death, our death.
 We returned to our places, these Kingdoms,
 But no longer at ease here, in the old dispensation,
 With an alien people clutching their gods.
 I should be glad of another death.

This is one of the stanzas or, shall we say, verse-paragraphs of the poem. When scanned, it stands as follows :

All this | was a long | time a-go, | I re-mem- | ber,
 And I | would do | it a-gain, | but set | down
 This set down |

This : | wěre wě léd | all thát wáy | for
 Bírth | ōr Deáth? | Thérē wás | ā Bírth, | cért-ain-lý, |
 Wě hād év- | i-dence and | nō dóubť. | Ī hād seen | bírth
 and déath, |
 Bűt hād thóught | thěy wěre diff | -ēr-ent ; | thís Bírth | wás
 Hárd | and bitt | -ēr ág | ōn-y | fōr ús, | likē Deáth, | ōr
 déath. |
 Wě rē-túrned | tō ōr plác | ěs, thēsē Kíng | -dōms,
 Bűt nō lóng- | ěr at eáse | hēre, | ĩn thē old | dīs-pēn-sa | -tīon,
 Wĭth ān āl- | iēn péo | -ple clűtch | -īng thěir gōds. |
 Ī shóuld | bē glád | ōf ān-ōth- | ěr déath. |

Let us examine the prosodic characteristics of this extract.

It is obvious that many of the characteristics of verse are here. Each line is made up of a number of feet, and the feet are those recognised in English prosody. The position and number of accented and unaccentated syllables in these follow the regulations of English prosody. There is not one of those feet that are to be found only in English prose and never in English verse. We get here iambs, trochees, dactyls, spondees, pyrrhics, tribrachs and stressed monosyllabic feet. But we do not come across feet like the cretic, the ionic, the paeon which are so common in English prose. Further in the whole passage there is no violation of a basic law of English prosody that there should not be a juxtaposition of more than three short syllables.

But in other respects the extract is unmetrical. The length of the various lines is widely varying ; the number of measures in the various lines is not regulated by any uniformity or any pattern. This need not of course be considered an insuperable objection to the metricality of the lines, for in odes (e.g., in

Wordsworth's Ode on the Intimations of Immortality) the lengths of the various lines in a stanza do not obey any principle of uniformity or the requirements of a pattern. But the essential condition of metricality is that there should be a close correspondence in prosodic value and rhythmical character between the feet constituting a batch of lines. This correspondence constitutes the link between the lines and determines their general metrical character. The usual thing to do is to repeat the same foot over a batch of lines, or to follow a simple pattern in the arrangement of two varieties of feet which are prosodically akin. English prosody allows, of course, substitution of an equivalent foot for the foot-staple, but substitution can only be by a foot of approximately the same prosodic value and character. For an iamb may be substituted an anapaest, a trochee or a tribrach; a trochee may be substituted for a dactyl; and these equivalences are reciprocal. But substitution must not take place to such an extent that the base of the metre can be mistaken. A line or a batch of lines must be composed very largely of only one particular type of foot, substitution of some kindred foot being allowed only to a very limited extent, and usually only just before or after some sort of pause. A line or a stanza must be iambic or trochaic or anapaestic obviously on account of the predominance of one particular foot in its constitution. We find that even in S. T. Coleridge's *Christabel*, perhaps the least regular of the best known English poems, the basic measure—iambus—is unmistakable. We give below a scansion of one of the most difficult stanzas.

Is | the night | chilly | and dark?

The night | is chil- | ly, but | not dark.

The thin | gray cloud | is spread | on high,

It cov- | ers but | not hides | the sky.

The moon | is behind | and at | the full ;
 And yet | she looks | both small | and dull.
 The night | is chill, | the cloud | is gray ;
 'Tis a month | before | the month | of May,
 And the spring | comes slow- | ly up | this way.

The substitutions are only occasional and do not interfere with the recognition of the foot-staple ; they are all from the range of measures eligible to be substituted for an iambus ; moreover the uniformity of the number of measures to each line and the rhyme emphasise the metricality.

But in the poem of T. S. Eliot, it is impossible to recognise any one measure as basis of the rhythm. In the 12 lines there are 49 feet in addition to several hypermetric syllables occurring at the ends of several of the lines. All sorts of feet are there—spondees, iambuses, a trochee, anapaests, tribrachs, pyrrhics, dactyls as also several stressed monosyllabic feet. They are associated without any plan at all, the author being satisfied with a foot that best indicates the emotional wave that passes through him for the time being. Though it might be pointed out that the greater number of feet are either iambuses or anapaests we cannot really say that here we get verse proper with an iambic or anapaestic basic rhythm. For if that were the case, no dactyl at least could have found a place here. Moreover although the other feet are admissible as substitutes for an iambus, the number of iambuses being 15 out of 49 we cannot speak of iambus being the basic foot here ; and although the number of anapaests is slightly larger, yet their number is less than half the total ; and with a basic anapaestic rhythm, neither dactyls nor trochees nor perhaps pyrrhics would be admissible as substitutes. And no verse would permit so frequent substitutions that would necessarily lead to a confusion. The fact is that the author has *freely* associated and juxtaposed the

various verse-measures without in the least caring for any verse-patterns at all. This is also evident from the author's refusal to introduce rhymes in spite of opportunities. This indeed is *free verse*. If the number of iambs and anapaests is so much larger than that of any other variety, it is because iambs and anapaests occur most frequently in common English speech.

We give below a scanned extract from another English poem to illustrate true free verse.

Hĩ́ héart, | tṓ mē, | wās ā́ place | ṓf pāl | -acēs and |

pī́nnā | -clēs and shī́n | -īng tṓwērs ;

Ī́ saw | ĩ́t thēn | ā́ wē | sēḗ thīngs | ī́n drēams,—

I dṓ not | rēmēm- | bḗr hṓw lōng | Ī́ slēpt ;

Ī́ rēmēm- | bḗr thḗ trēes, | and thḗ hīgh, | whī́tē wālls, |

and hṓw | thḗ sūn | wās ā́- | wāys ṓn | thḗ tṓwērs ;

The wālls | ā́rē stā́nd- | īng tṓ-day, | and thḗ gātes : |

Ī́ hāve bḗen | thrōugh thḗ gātes, | Ī́ hāve grōped, | Ī́ hāve crept

Back, Back. |

Here again we have verse-measures purely, but no verse-patterns in their association. The varieties of feet here are not too many, and the measures themselves are mutually interchangeable, but the mere fact that substitutions are so frequent suffices to keep it outside the domain of regular verse, especially when considered along with an absence of rhymes and a wide arbitrary variation in the length of the lines.

FREE VERSE IN BENGALI

Free verse proper has rarely been written in Bengali. The verse of *Balākā* is sometimes spoken of as free verse, but only

inaccurately. It is rhymed, and the presence of rhyme implies acceptance of some sort of verse-pattern. Moreover the construction of each individual line is really influenced by a pattern, the normal line being a dimeter with two measures of 8 and 10 morae. The regular succession of these lines is, of course, broken by many elliptical lines of shorter length and at times by a hypermetric word or phrase thrown in. The point to be noted here is that a line of Balākā verse cannot be lengthened out arbitrarily, cannot contain an arbitrary number of measures, cannot admit any and every measure arbitrarily. A normal line has always to be kept in view, although a measure or a beat is dropped from time to time to accelerate the flow of rhythm. Moreover the pauses are rung by rhyme which is one of the essential characteristics of this type of verse, and the rhyme-scheme actually gives or suggests simple, or elaborate patterns of stanza. The verse of Balākā thus comes under the category of verse proper, and not under free verse, though a good deal of latitude from the rigour of a set scheme is allowed here.

There is one poem in Rabindranath's *MANASI—NISPHAL KAMANA*—that has better claims to the name of free verse. Here at least there is no paramountcy of rhyme; the suggestion of any scheme for a stanza is less evident, perhaps absent. But we doubt if even here there is free association of a diversity of measures. A normal line with two measures of 8 and 6 morae seems to have been kept in view except perhaps here and there, and very rarely does the rhythm overflow the limits of a dimeter or admit lines which are not mere elliptical forms of a dimeter in 8+6. However Rabindranath does not seem to have made further experiments in this line. Perhaps a pattern is essential to his poetic genius.

The dramatic blank verse of Girischandra comes nearest to our idea of free verse. There is no rhyme; there is no suggestion at all of a stanza-scheme; a diversity of measures is freely associated, there is no standard line, no standard scheme

for a line. There can perhaps be only one objection. Every normal line—a line that is not evidently elliptical—is a dimeter, though not a dimeter with a set scheme. Yet the number of measures in each line being practically regular, there is perhaps a pattern, albeit a loose pattern.

PROSE-VERSE

Prose-verse is essentially distinct from free verse. Fundamentally it is prose, only with a verse pattern. The rhythmic quality of any particular piece of composition principally depends upon the constituent units which are combined to constitute a rhythmic whole. It is the measure that is of primary importance everywhere. "Free verse" is after all analogous to verse because the measures are common with those of verse, although there is freedom in selecting and arranging them. In prose-verse the measures are those common in prose; but they are grouped and associated according to verse-patterns. Thus prose-verse retains the very feature of verse which free verse discards, and rejects the one that free verse accepts. That is the distinction between free verse and prose-verse though both are types intermediate between verse proper and common prose.

A measure in prose-verse is, therefore, like a measure of prose, a phrase composed of integral words and conveying a connected sense. In the composition of such a measure a far greater variety of rhythmic movements will be admissible than in verse. A beat may be longer than a beat in a verse-measure, and a greater number of beats may go to the composition of a single measure. The beats may be arranged, as in verse, according to a quickly rising or a quickly falling or a level rhythm; but the arrangement may also follow a waved motion, and most usually the waved and the slow rising rhythms will be preferred.

Rhythmed prose has also measures with the characteristics noted above, but whereas the sequence of measures in prose rhythm is governed by the principle of variety, the measures in prose-verse are arranged according to patterns well-known in verse. In rhythmic prose the desire is to avoid the hypnosis of a repeating pattern; on the other hand in prose-verse there is the poetic motive to weave the various measures according to some scheme that is itself a poetic symbol. The scheme or pattern is meant to affect the mind strongly and impress a rhythmic idea. Prose-verse thus tends to form regular stanzas, sometimes simple and sometimes intricate. Neither free verse nor rhythmed prose follows the plan of any stanza in its structure.

Examples of prose-verse can be found in the Authorised Version of the Bible. The translators were faced with the task of rendering Hebrew verse into English, and though they found it impracticable to give a verse translation that would be faithful to the original, they did the best thing possible in the circumstances—they gave a translation in prose-verse preserving the original rhythm as far as practicable. And their success has been striking. Here is an extract from Chapter XXIV in the Book of Psalms.

(1) The earth is the Lord's, and the fulness thereof; the world, and they that dwell therein.

(2) For he hath founded it upon the seas, and established it upon the floods.

(3) Who shall ascend into the hill of the Lord? or who shall stand in his holy place?

(4) He that hath clean hands, and a pure heart; who hath not lifted up his soul unto vanity, nor sworn deceitfully.

(5) He shall receive the blessing from the Lord, and righteousness from the God of his salvation.

(6) This is the generation of them that seek him; that seek thy face, O Jacob. Selah.

As we go through the verses, we are powerfully impressed by an obvious rhythmic quality. The rhythm is evidently

allied to some kind of a pattern as is apparent from the manner in which the natural pauses are managed. The verses can be scanned in the manner indicated below.

- Verse (1).....Group I—The earth is the Lord's ॥ and the
fulñess thereof;
,, II—the world, and they ॥ that dwell
therein.
,, (2)..... ,. III—For he hath founded it ॥ upon the
seas,
,, IV—and established it ॥ upon the floods.
,, (3)..... ,. V—Who shall ascend ॥ into the hill of
the Lord?
,, VI—or who shall stand ॥ in his holy
place?
,, (4)..... ,. VII—He that hath clean hands, ॥ and
a pure heart;
VIII—who hath not lifted up his soul ॥
unto vanity,
,, IX—nor sworn ॥ deceitfully.
,, (5)..... ,. X—He shall receive ॥ the blessing
from the Lord,
,, XI—and righteousness ॥ from the God
of his salvation.
,, (6)..... ,. XII—This is the generation ॥ of them
that seek him;
,, XIII—that seek thy face ॥ O Jacob.

Selah.

When we follow the above scansion, a question naturally strikes us : Is it not free verse ? That it is not regular verse, is quite clear. But cannot the sections of verse be further analysed into verse-feet ? In some of the sections this is possible but not in all, and ultimately we find that the constituent feet are those of prose really. Where we have verse measures exclusively, we shall find that juxtaposition of more than three unaccented syllables is avoided. On the other hand such juxtapositions are quite frequent here. Again it is not mere prose. Most of the verses naturally resolve themselves into sections and groups arranged symmetrically or according to an obvious pattern. This is a characteristic of verse and entitles the extract to be called prose-verse. The corresponding groups, it will be noticed, are based on a similar rhythm, and within a single group there are only two sections, their mutual proportion yielding a level, a falling or a rising rhythm in the simplest terms just in the proportions in which we have them in the measures of verse. The mutual proportion of the sections depends to some extent upon the total quantity in each but more upon the number of stresses, the most significant feature in English speech.

In this connection we might mention the prose-verse in Tagore's *Gitanjali*. It has won just and high praise for its beautiful rhythmic effects, although it is only in prose. We shall find on closer examination that it is actually in prose-verse of a type rather uncommon in English, and that accounts for its charm and immediate success. Here is an extract taken from Poem No. 22 :

“In the deep shadows of the rainy July, with secret steps,
thou walkest, silent as night, eluding all watchers.

Today the morning has closed its eyes, heedless of the
insistent calls of the loud east wind, and a thick veil has been
drawn over the ever-wakeful blue sky.

The woodlands have hushed their songs, and doors are all
shut at every house. Thou art the solitary wayfarer in this

deserted street. Oh my only friend, my best beloved, the gates are open in my house—do not pass by like a dream.”

On scrutiny it appears that the passage can be scanned thus :

1st Stanza	Group I	In the deep shadows||of the rainy July,
	„ II	with secret steps||thou walkest,
	„ III	silent as night,||eluding all watchers.
2nd „	„ IV	'Today the morning||has closed its eyes,
„	„ V	heed-less of the insistent
		calls||of the loud east wind,
„	„ VI	and a thick veil has been drawn||over the
		ever-wakeful blue sky.
3rd „	„ VII	The woodlands||have hushed their songs,
„	„ VIII	(and) doors are all shut||at every house.
„	„ IX	(Thou art) the solitary wayfarer||in this
		deserted street.
4th „	„ X	Oh my only friend,||my best beloved,
„	„ XI	the gates are open||in my house—
„	„ XII	do not pass by||like a dream.

The entire poem is easily divisible into 4 stanzas, each constituted on the same pattern. Each stanza contains 3 phrase-groups, the last group being often longer than the first two. Every student of Bengali prosody knows that this is a very common rhythmic pattern in Bengali poetry—the pattern of Lachari or Tripadi, and it is a special favourite of Tagore. Each group has two phrases, of approximately equal length, the quantity of syllables being taken into consideration. At times the two phrases are not equal, but in such cases a suitable

plan with regard to their mutual proportion and relative position is followed in all the sections in a stanza. The poem here does not obey the rules of English metres, but its rhythmic pattern is undoubtedly poetic and its predominance is absolutely clear. The pattern is, however, constituted by phrases, not verse-measures, and they are not to be considered qualitatively but quantitatively. Though syllables in English undoubtedly have varying quantity, this question of quantity is disregarded commonly in the constitution of verse. The striking success of Tagore was really due to his instinct as a master of Indian rhythms. He wrote English prose with a sure instinct for quantitative equivalence and a flair for beautiful poetic patterns. Thus he brought into English prose qualities that it lacks usually, and made it graceful and refreshing beyond measure.

In the 19th century prose-verse became widely known through the works of Whitman who wrote his epoch-making works in this form. Here is one extract with a simple verse-pattern. The number of phrases in each line is indicated by numerals at the end.

All the past || we leave behind (2)

We débouch || upon a newer || mightier world, || varied world, (4)

Fresh and strong || the world we seize, || world of labour ||

and the march (4)

Pioneers ! || O Pioneers (2)

We detachments || steady throwing (2)

Down the edges || through the passes, || up the mountains ||

steep (4)

Conquering, holding, || daring, venturing || as we go ||

the unknown ways (4)

Pioneers ! || O Pioneers (2)

Here is another extract with a more complex pattern.

On the beach || at night, (2)

Stands a child || with her father, (2)

Watching the east, || the autumn sky (2)

Up || through the darkness, (2)

While ravening clouds, || the burial clouds, || in black masses
spreading (3)

Lower || sullen and fast || athwart and down || the sky (4)

Amid a transparent || clear belt of ether || yet left in the east (3)

Ascends large and calm || the lord-star Jupiter (2)

And nigh at hand || only a very little above, (2)

Swim the delicate sisters || the Pleiades (2)

Stanza-schemes are quite apparent in the extracts given above. The correspondence between the phrases is provided by the stresses, and not by any qualitative or even quantitative scheme. The units of rhythm are taken from prose but they are woven together by a verse-pattern. It may be noticed that the rhythmic pattern includes at times an element of variety, and the sequence of measures might hold good for rhythmic prose, but the continuity and even tenor of prose are here repeatedly and deliberately broken by the major pauses according to a patent scheme and an inversion of syntax. The passage above impresses up as a mosaic of phrases collocated according to plan, and not as true prose.

We shall consider the character of Bengali prose-verse in the next chapter.

It only remains for us to end with a reminder that there is a special art for each of the literary forms we have referred to so far. Free verse is not mere bad verse. If it disregards some of the rules of versification, it is because it has a special artistic purpose to fulfil, and to this end a newer type

has to be invented and newer principles evolved. Similarly common prose is not to be supposed to be a dull and debased form of rhythmized prose. Rhythmized prose is for special moods and realisations. At other occasions common prose is the proper medium, and it can be a very expressive and adaptable medium in the hands of a real artist. There have been many masters of prose who attained their success without caring to write rhythmized prose. It was because their mood and their thoughts were on a different level. Then again rhythmized prose is not, as we have already explained in another chapter, merely an affected form of prose or a sort of pseudo-verse. Neither will a halting sort of rhythmized prose, nor a mannered form of common prose tantamount to true prose-verse. It is true, of course, that a certain amount of what passes for free verse, prose-verse or rhythmized prose is only bad verse or bad prose, differentiated from the regular type only by certain lapses or mannerisms. And these defects are to be found not only in lesser writers and imitators, but even at times in the acknowledged masters of these forms. It is so only because their technique has not yet been thoroughly studied and definite principles and laws governing their constitution enunciated. When that will be done, as has been done in the case of verse, the popularity and success of these forms will vastly increase and they will be established as regular literary forms side by side with common verse and prose.

CHAPTER VI

PROSE-VERSE IN BENGALI

Only recently prose-verse as a distinct literary form has come into vogue in Bengali. The lead, as might be expected, came from Rabindranath, and there are now several writers who have been practising this form consistently. But no very remarkable success has been achieved by these writers, and even the success attained by Rabindranath is not of uniform degree. The principal reason is, of course, that the character and constitution of prose-verse has not yet been analysed and understood even by the writers themselves, and they have to rely only on instinct. In the absence of a thorough understanding of principles, instinct may sometimes prove unreliable as it works only with fitful energy and may fail "when the need is the sorest." There is another reason. The constitution of prose-verse, like that of free verse and of rhythmic prose, is not so rigidly regulated by definite rules as that of regular verse; a very great deal of option or freedom is left to the writer himself, and the author himself must know to exercise this liberty to artistic purposes. Even in verse real success is to some extent dependent on elements beyond the rules of prosody, and a faithful observance of all the rules of metre does not always mean any remarkable artistic success, as has been found by many poets of lesser rank. It is because they lack the artist's instinct for vowel-music and other aspects of verse and do not understand the limitations of metrical rules as means to a rhythmic end. They lack the instinct and courage to introduce variations in the regularity of metre, and thus fail to produce anything but a mechanical periodicity. If so much depends even in verse on the writer's instinct, it is easy to understand why so many have failed to

achieve a real degree of success in prose-verse where rules are lax and the constitution so elastic.

* * * * *

We have already noted the fundamental features of prose-verse; the constituent units of rhythm have the character of prose measures or phrases; but it is according to a verse-pattern that they are woven together into a rhythmic whole. The general rhythmic effect is poetical, although each unit retains the quality and accent of prose.

We can deduce herefrom the rules governing the constitution of prose verse in Bengali.

(A) EACH LINE OF PROSE-VERSE CONSISTS OF A NUMBER OF PHRASES, EACH PHRASE COUNTING AS A MEASURE.

This is also true of a sentence in common or rhythmized prose.

(B) EACH SUCH MEASURE OR PHRASE MUST CONTAIN AN INTEGRAL NUMBER OF WORDS.

This is also true of prose.

(C) A MEASURE IS MADE UP OF 2 OR 3 BEATS, EACH BEAT BEING A WORD OR A GROUP OF ALLIED WORDS.

A single word should not be distributed between two beats. But in case of a compound word, the component words or particles may be conveniently distributed between two beats.

This rule is slightly different from the corresponding one in prose rhythm, as the number of possible beats is limited to 2 or 3. This particular feature is one to be found in verse. The rhythmic ideal in prose-verse is really that of verse.

(D) THE MAXIMUM LENGTH OF A BEAT IN PROSE-VERSE MAY BE MORE THAN 4 MORAE.

This is also a feature characteristic of prose. (Moric value is to be calculated in prose-verse as in prose.)

(E) THE ARRANGEMENTS OF BEATS IN A MEASURE OF PROSE-VERSE MAY BE OF MANY DIVERSE TYPES AS IN PROSE.

(F) THE ARRANGEMENT OF MEASURES IN A LINE SHALL BE AS IN RHYTHMED PROSE. THIS IMPLIES

(i) a mathematical seriality will regulate the number of beats in successive measures ;

(ii) the successive measures should not as a rule be mutually equal in respect of total quantity, a variety in this respect should principally be aimed at. Any sense of uniformity in this respect would militate against the idea of prose-verse, and tend to that of regular verse. It will give rise to a different set of anticipations, which cannot be entirely satisfied in prose-verse and thus an unhappy sense of discord will only be engendered.

(G) SUCCESSIVE LINES IN PROSE-VERSE SHOULD FOLLOW A VERSE-PATTERN IN THE NUMBER OF MEASURES IN SUCCESSIVE LINES.

(We must add here that, as in verse, hyper-metric words may from time to time be prefixed or affixed to a regular line.)

(H) EACH MEASURE CONTAINS ONE AND ONLY ONE EMPHATIC WORD.

(I) IN BIG LINES THE RULES OF CURSUS HAVE TO BE OBEYED.

The above enunciations are based on generalisations from the practice of the only successful writer of prose-verse in Bengali, Rabindranath Tagore, and they are also supported by our *a priori* considerations and deductions from previously accepted principles. They can best be illustrated by concrete examples. Here is a poem in prose-verse in Rabindarnath's latest style. It is the 9th poem in his *Shesh-Saptak*. We give the poem as scanned by us. (The Roman numerals at the end of a line indicate the number of measures in it.)

ভালোবেসে | মন বল্লে—	II	}
(“আমার” সব রাজত্ব | দিলেম তোমাকে ।”	II	
অবুঝ ইচ্ছাটা | করলে অভ্যুত্তি ;	II	}
দিতে | পারবে কেন ?	II	
সবটার নাগাল পাব | কেমন করে ?	II	

¹ ওষে | ¹ একটা ² মহাদেশ,	II
¹ সাত ² সমুদ্রে | ¹ বিচ্ছিন্ন।	II
(ওখানে) ¹ বহুদূর ² নিয়ে | ¹ একা ² বিরাজ ³ করছে	II
¹ নির্বাক্ | ¹ অনতিক্রমণীয়।	II
(তার) ¹ মাথা ² উঠেছে | ¹ মেঘে ² ঢাকা | ¹ পাহাড়ের ² চূড়ায়,	III
(তার) ¹ পা ² নেমেছে | ¹ আধারে ² ঢাকা | ¹ গহবরে।	III
¹ এ যেন ² অগম্য ³ গ্রহ | ¹ এই ² আমার ³ সত্তা,	II
¹ বাষ্প ² আবরণে | ¹ ফাঁক ² পড়েছে | ¹ কোণে ² কোণে,	III
¹ দূরবীণের ² সঙ্কান | ¹ সেইটুকুতেই।	II
¹ যাকে ² বলতে ³ পারি | ¹ আমার ² সবটা,	II
(তার) ¹ নাম ² দেওয়া | ¹ হয় ² নি,	II
¹ তার ² নক্সা | ¹ শেষ ² হবে | ¹ কবে ?	III
¹ তার ² সঙ্গে | ¹ প্রত্যক্ষ ² ব্যবহারের | ¹ সম্পর্ক ² হবে ³ কার ?	III
¹ নামটা ² রয়েছে | ¹ যে ² পরিচয় | ¹ টুকু ² নিয়ে,	III
¹ টুকুরো | ¹ জোড়া-দেওয়া | ¹ তার ² রূপ,	III
¹ অনাবিস্কৃতির | ¹ প্রান্ত ² থেকে | ¹ সংগ্রহ ² করা।	III
¹ চারিদিকে | ¹ ব্যর্থ ও ² সার্থক | ¹ কামনার	III
¹ আলোয় ² হায়ায় | ¹ বিকীর্ণ ² আকাশ।	II
¹ সেখান ² থেকে | ¹ নানা ² বেদনার | ¹ রঙীন ² ছায়া ³ নামে	III
(চিত্তভূমিতে ;)	
¹ হাওয়ায় ² লাগে | ¹ শীত ² বসন্তের | ¹ ছোঁওয়া ;	III
¹ সেই ² অদৃশের | ¹ চঞ্চল ² লীলা	II
¹ কার ² কাছেই বা | ¹ স্পষ্ট ² হলো ?	II
¹ ভাষার ² অঞ্জলিতে | ¹ কে ² ধরতে ³ পারে | ¹ তাকে ?	III

¹ জীবন ² ভূমির | ¹ এক ² প্রান্ত | ¹ দৃঢ় ² হয়েছে	III
¹ কৰ্ম ² বৈচিত্র্যের | ¹ বন্ধু- ² রতায়,	II
¹ আর এক ² প্রান্তে | ^{1 2} অচরিতার্থ | ¹ সাধনা	III
¹ বাষ্প ² হয়ে | ¹ মেঘায়িত ² হোলো | ¹ শুভে,	III
¹ মরীচিকা ² হয়ে | ¹ আঁকছে ² ছবি ।	II
(এই) ¹ ব্যক্তি ² জগৎ | ¹ মানব ² লোকে | ¹ দেখা ² দিল	III
¹ জন্মমৃত্যুর | ¹ সঙ্কীর্ণ | ¹ সঙ্গম ² স্থলে ।	III
(তার) ¹ আলোক ² হীন | ¹ প্রদেশে	II
¹ বৃহৎ ² অগোচরতায় | ¹ পুঞ্জিত ² আছে	II
¹ আত্ম- ² বিস্মৃত | ¹ শক্তি,	II
¹ মূল্য ² পায় নি | ¹ এমন ² মহিমা,	II
¹ অনঙ্কুরিত | ¹ সফলতার ² বীজ | ¹ মাটির ² তলায় ।	III
¹ সেখানে ² আছে | ¹ ভীকুর ² লজ্জা,	II
^{1 2} প্রচ্ছন্ন | ¹ আত্মাবমাননা,	II
¹ অখ্যাত | ¹ ইতিহাস,	II
¹ আছে | ¹ আত্মাভিমানের	II
¹ ছদ্মবেশের | ¹ বহু ² উপকরণ,—	II
¹ সেখানে ² নিগূঢ় | ¹ নিবিড় ² কালিমা	II
¹ অপেক্ষা ² করছে | ¹ মৃত্যুর ² হাতের ³ মার্জনা	II
(এই) ^{1 2} অপরিণত | ¹ অগ্রকাশিত ² আমি,	II
¹ এ কার ² জন্তে, | ¹ এ কিসের ² জন্তে ?	II

যা নিয়ে এল | কত সূচনা, | কত ব্যঞ্জনা,	III
বহু বেদনায় | বাঁধা হোতে চল | যার ভাষা,	III
পৌছিল না | যা বাণীতে,	II
তার ধ্বংস হবে | অকস্মাৎ নিরর্থকতার | অতলে,	III
সইবে না | সৃষ্টির এই | ছেলে মানুষী ।	III
অপ্রকাশের | পর্দা টেনেই | কাজ করেন গুণী ;	II _I
ফুল থাকে | কুঁড়ির অবগুণ্ঠনে,	II
শিল্পী | আড়ালে রাখেন | অসমাপ্ত শিল্প-প্রয়াসকে ;	III
কিছু কিছু | আভাস পাওয়া যায়,	II
নিবেদ আছে | সমস্তটা | দেখতে পাওয়ার পথে ।	III
(আমাতে) তাঁর ধ্যান | সম্পূর্ণ হয় নি,	II
(তাই) আমাকে বেঁধেন করে | এতখানি নিবিড় নিস্তরতা,	II
তাই আমি অপ্রাপ্য, | আমি অচেনা ;	II
অজানার ঘেরের মধ্যে | এ সৃষ্টি রয়েছে | তাঁর হাতে,	III
কারো | চোখের সামনে | ধরবার সময় আসেনি,	III
সবাই রইল | দূরে,—	II
যারা বললে “জানি,” | তারা জানলো না ।	II

A few observations on the scansion above are called for.

We have indicated the divisions into beats by index numbers as in scanning prose-rhythm. No measure has more than 3 beats. But there are several measures with only one beat. They occur only at the commencement or at the end of a line, and should be considered acephalous or catalectic measures. Occasionally we come across hyper-metric words. Usually they occur at the commencement of a line and serve

as a sort of take-off for the rhythmic impulse. They do not have any stress or emphasis on them, and from the standpoint of meaning, too, they are comparatively unimportant. They are usually pronouns, conjunctions, conjunctive adverbs or some particles. They have been marked off by brackets. Rarely they occur at the end of a line, too, and in such cases the poet invariably places them in a separate line next to the principal one and all by themselves. They are to be considered as overflows of the principal line, a sudden impulse carrying the voice beyond the proper limits.

The manner in which compound words or bigger derived words are at times split up into beats, does also deserve notice. The attempt always is to keep the stems distinct and unsplit between different beats but convenience and the rhythmic necessity are the ultimate deciding factors. Each beat begins with an accent and ends with a perceptible falling off of the intensity or the loudness of voice. Between two measures there is a minor pause, each measure being a sense-group or a phrase. Rarely again we find that two consecutive lines really belong to one rhythmic group and should have properly been included into only one line. It is, however, to emphasise a caesura between two consecutive measures in the same rhythmic group that two lines have been written in lieu of one. As no line here contains more than three measures, the question of cursus or of the suitable succession of rhythmic types in the measures is not at all important here.

The most important aspect to be noticed here is undoubtedly the existence of patterns. The poet divides the poem into several parts, but each part is divisible into sub-divisions, each with a stanza-pattern in its constitution. These stanzas are marked by us with long brackets alongside the lines. We find that considering the number of measures in each line, and not the total quantity, the lines can easily be grouped into stanzas. The patterns are the familiar ones in verse, and amongst them we have forms analogous to the

couplet, the triplet, the quatrain, the quintette. The various lines in such a stanza constitute a single sentence, or a sub-paragraph, and thus they are cemented together by an intellectual affinity, though not by any rhyme-scheme. The lengths of the measures and of the lines vary widely, and thus allow abundant scope to the poet freely to express the rise and fall of the intensity of his emotions and the fluctuations of his thought.

We also notice that each particular measure contains one emphatic word marking the crest of the rhythmic motion in the measure ; the other words or beats in the measure appear to move up to or down from it. It has the same importance here as the accented syllable in a foot in English verse.

The poem scanned above is one of the most typical. But it does not indicate all the varieties attainable in prose-verse. No line here has more than three measures. But a larger number may be included. In the poem entitled SHAP-MOCHAN in *PUNASCHA* there are many lines with four or more measures. We quote a few lines here :

এক দিন | নিম ফুলের গন্ধ | অন্ধকার ঘরে | অনির্বচনীয়ের আমন্ত্রণ | নিয়ে এসেচে । (V)

মহিষী | বিছানা ছেড়ে | বাতায়নের কাছে এসে | দাঁড়ালো । (IV)

মহিষীর | সমস্ত দেহ | কম্পিত । (III)

বিল্লী-বাক্ত | রাত, (II)

কৃষ্ণ পক্ষের | চাঁদ দিগন্তে । (II)

We find here a descending order in the numbers of measures in the successive lines. Doubtless many other patterns are possible.

Many of the prose-verse poems of Rabindranath, especially those included in *SHESH-SAPTAK*, have a resemblance in structure to the poems in *BALĀKĀ*. There is always the suggestion of a pattern, a more or less clear scheme for the structure of a stanza is discernible. There is a standard line but frequent departures from the standard are made by the insertion of

elliptical lines. Hypermetric words are put in from time to time to accelerate or otherwise vary the pace of metre. Of course there is no rhyme in prose-verse and hence in its absence the extreme fluidity of structure allowed in poems of BALAKA-type may not be associated with prose-verse without risk. For there will be a possibility of missing a verse idea altogether, and the result will be neither good prose-verse, nor good rhythmised prose. Hence the presence of a pattern in the structure of lines and stanzas in prose-verse ought to be more evident.

There are some prose-verse poems again which resemble the poems in *PALĀTAKĀ* in their structure. There is no standard line, the successive lines widely varying in respect of the number of measures. Nor is there any suggestion of a pattern in the grouping of the lines, consecutive lines do not go to constitute a stanza or even suggest the scheme of a stanza. But the measures themselves are uniform, and this uniformity provides the required metrical quality. In prose-verse, of course, this uniformity cannot mean moric equivalence in respect of total quantity, for the measures in prose-verse have the same features as those in prose. It is the number of beats in each measure that provides a basis for comparison between two measures in prose or prose-verse. Hence in the sort of prose-verse poems that we envisage here, there will be a correspondence between the various measures in the number of beats in each. Generally speaking the number is two—the number of beats in a measure in the stressed metre, the metre in which the *PALĀTAKĀ* poems are written. The rhythmic arrangement also happens frequently to be uniform, a level rhythm being prominent, but this uniformity in the rhythmic arrangement of beats is not and cannot be insisted on. In illustration we might quote these lines from the poem entitled *MANAB-PUTRA* in *PUNASCHA*.

¹মৃত্যুর ²পাত্রে | ¹খুঁট ²বেদিন | ¹মৃত্যুহীন ²প্রাণ | ¹উৎসর্গ ²করলেন

¹রবাহুত | ¹অনাহুতের | ¹জগে,

¹ভার ²পরে | ¹কেটে ²গেছে | ¹বহুশত | ¹বৎসর,

¹আজ ²তিনি | ¹একবার | ¹নেমে ²এলেন | ¹নিত্যধাম থেকে | ¹মর্ত্যধামে।

We have here to give a warning that there are certain compositions that are only pseudo-prose-verse. For instance we may refer to the last poems in *PUNASCHA*, especially to poems like *PAYALĀ ĀSWIN*, *GĀNER BĀSHA*. Here actually we get measures current in verse, not the typical prose measures. The lines are obviously divisible into measures of 4 morae each, with frequency of stresses and consequent shortenings of closed syllables. In fact there is no difference in structure between such a poem and a poem of the *PALĀTAKĀ* type except the presence of rhyme in one case and its absence in the other. But in the absence of rhyme and all semblance of a pattern, such poems do not really come in the category of verse. As we noted previously, the essentials of verse are the presence of measures constituted according to recognised principles of verse-rhythm and, secondly, the presence of some sort of a rhythmic plan or an element of coherence to cement the measures into a rhythmic whole. It is the absence of the last element that precludes the possibility of classifying them as poems in verse. Nor do these deserve to be called poems in prose-verse, the very composition of the measures here is against the idea of prose. The measures have to be considered in terms of total quantity, the moric value of each syllable being separately considered. The progress of rhythm thus is intimately associated with the succession of syllables. Now we have noted already that this is against the very idea of a prose rhythm, for the unit of prose rhythm is the word, not the syllable, and a measure of prose is not considered in terms of total moric value but in terms of beats and their number, distribution and mutual relation. Moreover, each prose measure is a distinct phrase, an integral sense-group, a component of the larger sense-group, the sentence. The division of measures in prose rhythm should not cut through a phrase or a group of

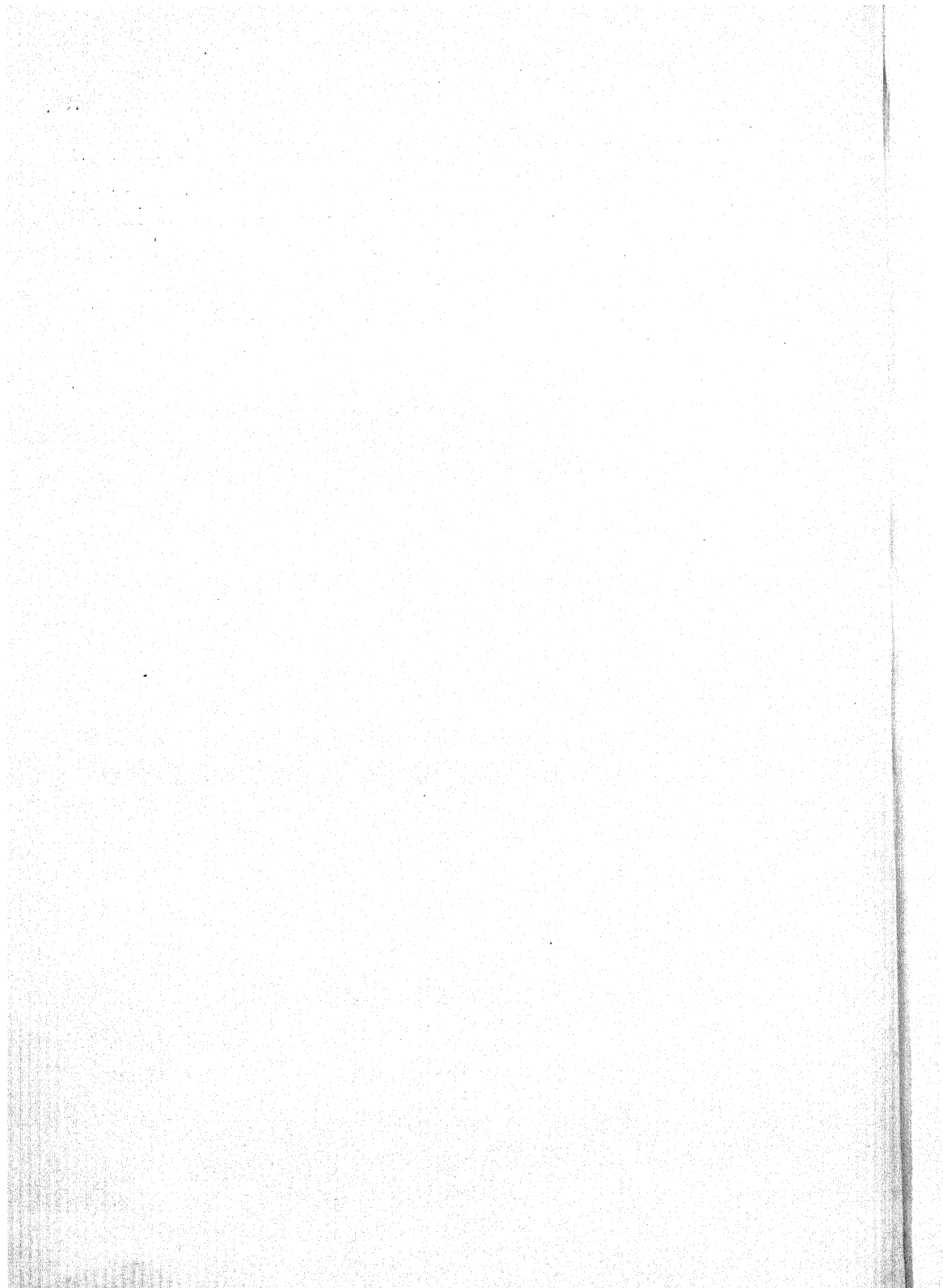
closely related words. But these principles are not adhered to in the poems under consideration. Moreover in measures of prose rhythm the normal syntactical order of words is to be maintained. Although inversions are allowed, they must be very much restricted. It may be possible to invert the position of one entire phrase, but within the phrase itself the normal order must be maintained, otherwise it would only produce a sense of discord. But in these poems the normal prose order is not always maintained even within the measures, poetic inversions are too frequent. These do not therefore deserve to be called poems in prose-verse. In fact they are neither verse nor prose-verse, and fail to give us the rhythm of either. As we have noted already, prose, verse and prose-verse have each distinct rhythmic ideas and principles, and merely a partial departure from the principles of one would not give us the rhythm of another.

There are again certain compositions that are really in prose, rhythmized or otherwise, although they look like prose-verse. But really speaking it is only the printer's trick with the line formations that gives them a semblance of prose-verse. They violate one or more of the following canons on the structure of prose-verse, *viz.*, (1) that the number of beats in a phrase should be only 2 or 3, (2) there will be a mathematical seriality in the numbers of beats in the successive phrase-measures, (3) a verse pattern should be followed in fixing the number of measures in associated lines. By way of illustration we might refer to the following lines from SHAP-MOCHAN in Rabindranath's *PUNASCHA*.

¹কমলিকা | ¹তার ²স্বপ্নী ⁸এলোচুলে | ¹রাজার ²হই পা | ¹ঢেকে ²দিলে,
¹বললে, | ¹“আদেশ ²করো | ¹আজ ²উষার ⁸প্রথম ⁴আলোকে | ¹তোমাকে ²প্রথম ⁸দেখব।”
¹রাজা ²বললে, | ¹“প্রিয়ে, | ¹না-দেখার ²নিবিড় ⁸মিলনকে | ¹নষ্ট ²করো না | ¹এই ²মিনতি।

Besides violating some of our canons, the lines above have not always a sustained rhythmic movement: some of the pauses

It cannot be claimed, of course, that everywhere in *LIPIKĀ* the rules of prose-verse or of rhythmized prose are strictly followed. Rabindranath was experimenting with a new type, and in the absence of clearly enunciated principles it is not surprising that there should be occasional lapses into just common prose. *LIPIKĀ*, however, remains an important land-mark in the progress towards prose-verse.



THE BUNAS OF BENGAL

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CHAPTER I

ORIGIN AND MIGRATIONS

Intersected by a network of river system and supplied by regular seasonal rains the vast deltaic plain of Bengal is pre-eminently fertile. Lying mostly within the tropics, between Lat. 21° and 27° N. and Long. 87° and 91° E., the climate is hot but moist. The Himalayas in the North serving as a barrier against the chill North-East monsoon render the climate considerably equable. The fertile soil and the equable temperature make living cheap and people want little. The peculiar land settlement of Bengal, the Zamindary settlement, existing from remote times, has deprived the country of absolutely landless labour. The climate, the soil, the fertility, aided by the land settlement, has contributed to the formation of the peculiar social and family constitution of Bengal. The poorest man here has at least a hut and a family. He has something his own to look upon and to enjoy. He has a small plot of land which he cultivates and can find happiness in his small family.

In this peculiar society of Bengal and with the rise of the power and prestige of the Zamindars there came a demand for landless labour for the satisfaction of their aristocratic vanities. This demand increased with the advent of the English and the establishment of large scale farming in the form of silk and indigo factories. The contentment of the people and their habits of idleness due to the moist and enervating climate would not

allow them to be allured by prospects of wealth to devote their time, when they had no employment on their own fields, to serve as day labourers. And the demands of the Zamindars and Factors had to be supplied by recruitment from other parts of India, particularly the hill tracts of Central India. In the days before the invention of machineries large scale productions were carried on by slaves and gave rise to slave trade. In the beginning of the nineteenth century science and humanity abolished slave trade, but a new thing has come into being which is called indentured labour. In India slavery was almost unknown and slave trade never practised. So from the very beginning large scale productions had to be carried on in Bengal only by the help of indentured labour.

Recruitment of landless labour from Chittagong coast was not possible as sea and vastly wide rivers separate the place from Bengal. Moreover the people of Bengal both hated and feared the Mughls who constantly made plundering inroads into Southern Bengal. Assam in the North-East of Bengal is still wanting in population and the modern tea gardens have to depend exclusively on indentured labour from Central India. Assam is not unfertile and it is not likely that a fertile soil would send away labour from its scanty population for service in other parts of the country. If any recruitment had taken place from Assam, certainly some traces would have been left in the districts lying between the Ganges and the Brahmaputra. Nor is there to be found any similarity between the people, of whom I am going to speak here, and the original Assamese. In my tour to Manipur through Assam in October, 1934, I tried to detect if any similarities could be found between the Assamese and the people under discussion. But I found nothing suggestive of recent migration.

The only possible source of indentured labour for Bengal was, and even to-day is, the hill tracts adjoining the western districts of Bengal. In these places live various communities of semi-barbarous tribes, in whom the pre-Dravidian element

is predominant, and of these the Oraons, Birhors, Santals, Mundas, Hos, and Bhumijas are the prominent. They have lived here from ancient times chiefly on agriculture and hunting. During the inroads of the Marhattas into Bengal they visited the country as the camp followers of the Bargirs, and probably they were greatly attracted by the abundance of the soil and the variety of its occupation. After the decline of the Marhattas these hill tribes continued their acquaintance with Bengal in the tail of the Thugs, the successors of the Bargirs, and could thus live in comparative comfort with the booties they could gather.

But with the rise of the British power, as the country began to settle down to peace and order, the hill tribes found themselves left to starvation in their unfertile native soil. And thus began their east-ward exodus in search of food.

The advent of the English was marked by the establishment of a number of silk and indigo factories requiring a number of actual day labourers. But as landless labour was not to be had in the country and as the European factors were looked upon with horror by the native peasantry, the services of these immigrants from Choto Nagpur were immediately requisitioned. This attracted more men from the hilly regions and in a short time the western and central parts of Bengal were supplied with cheap landless labour. Consequently in a short time some of them came to be employed even by ordinary cultivators during the harvest season, and by the Zamindars in their various requirements. That they were employed in large numbers by the indigo factors can be judged from the fact that even to-day the colonies of these people are mainly near the old sites of the indigo factories. Only a few small colonies may remain here and there near the residences of the Zamindars. Risley says that this exodus is constantly going on and many, if not most, of these people are employed in gathering in the rice harvest of central and eastern Bengal, some clear the 'Chars' of the Meghna and the Brahmaputra. But as far as I can gather I

find no present stream of labour from Choto Nagpur for Bengal, except for service in the Calcutta Corporation and a few other municipalities. Moreover no colony of these people exists near the 'Chars' of the Meghna and the Brahmaputra. Their employment on the 'Chars' might be sporadic and practically given up in the present time. The eastern limit of these colonies is Faridpur and Khulna.

Risley's remark that the settlers in Bengal live in a more or less nomadic fashion in the districts east of Hughli has not been found to be exactly correct. They are found to be living perfectly settled lives in their small colonies.

In the Bengal villages they live in separate areas at some distance both from the Hindu and the Mahammadan habitations, and have been able to preserve their distinctive character. The outlandish habits, strange customs, peculiar intonation, the dark brown complexion and their gigantic strength, coupled with the rumour that they came from the forest, earned for them the style of the 'Bunas.' Risley suspects that the word Buna is a corruption of the Bengali term 'Ban' or jungle, from which he infers that the people called them so, suspecting them to have hailed from the jungles, or on account of their aptitude for clearing jungles and bringing them under cultivation. But I have been informed by the people themselves, by a few sardars of their class, that the term Buna was given to them by the indigo factors and Zamindars who called them 'Jungly' people or 'Bunos,' meaning wild class of people. Another information is that they came to be called Buna as they used to sow indigo seeds in the fields. The Bengali word 'Bonā' is colloquial of the Sanskrit term 'Bapana' meaning 'to sow.' Another explanation is that when they first came they were lazy and like beasts in their habits, so people came to call them Bunas or wild people or people like beasts.

Risley's remark that they are hated both by the Hindus and the Mahammadans for their fondness for fowl and partiality for pork, has been found to be correct. And thus having been

shunned by the two principal peoples of Bengal, they have been able to keep up their separate existence and distinctive characteristics.

One of the most important evidences of the Bunas having come from Choto Nagpur is that the folk-lore and mythological stories of these people are similar to, and in some cases the same with, those of the tribes—the Santals, Birhors, Bhumijas, etc.—now living in the Choto Nagpur area. Sing Bhonga, the name which they give to their great god, from whom they claim descent, is also the great god of some of the tribes of the Choto Nagpur area.

The immigrants no doubt came from a number of tribes, though the people of Bengal considered them to be one people. They probably kept up their separate tribal units for a long time by the preservation of endogamous marriage system. But in course of time fusion has taken place and the separate units of their original homes are no longer to be found. Practically they now form one people divided into some classes, of whom the higher classes are chiefly exogamous, but the lower classes are endogamous. This endogamous character is a special feature of the Bengal Bunas, which is uncommon among the Choto Nagpur tribes.

In spite of their separate existence and though they are socially shunned by the Hindus and the Mahammadans alike, it is quite certain that a large amount of intermixture has taken place between these Bunas and the two communities. This has to some extent brought about a physical change not usually to be found among the Choto Nagpur tribes, which will be discussed at length in a succeeding chapter.

DISTRIBUTION

At present these Bunas are found to live in the districts of Burdwan, Hughli, Howrah, 24-Parganas, Nadia, Murshidabad, Maldah, Jessore, Khulna and Faridpur. Their greatest concentration is in the districts of Nadia, Jessore and Khulna.

This may be due to the fact that the peasants of these parts were most unwilling to do any work for the indigo planters. This unwillingness at last culminated in the indigo rebellion in these three districts towards the latter part of the 19th century. Probably for this reason the indigo factors of these parts drew the largest part of this indentured labour. The colonies of these Bunas are still existing near the old sites of the indigo factories. At some places they have been found to have removed their habitations to short distances from the old factories, to avail themselves of the advantages of a newly growing town or market place or of the residence of a rising Zamindar for fresh employment.

The present number of the Bunas, according to the Census Reports of 1931, is 946, of which 557 are males and 389 females.¹ But by actual observation I have found the number to be 1,162—males 682, females 480. This disagreement with the Census Report is probably for some of the Bunas having recorded themselves at the census taking as belonging to the lower classes of the Hindu society bearing the same or similar professional names (*vide* Appendix II). Moreover the last census was taken in 1931 and I commenced work among the Bunas in 1933. Also there is difficulty in the actual figuring of these people on account of their sometimes describing themselves by their caste names instead of the more generic term Buna, as has been mentioned by Risley.

From Risley we come to know that the number of these people was 58,312 in 1872. This came down to 41,792 in the census of 1881. So the number decreased by about 17,000 in course of ten years. Whether the number regularly declined and came down to the present figure is difficult to ascertain. After 1881 no mention is found of the Bunas in the four succeeding Census Reports, and they re-appear in the attenuated figure of the Census Report of 1931. During this period the indigo factories

finally disappeared from Bengal, causing no doubt considerable change in the life of the Bunas. They were forced to seek employment elsewhere and to change the mode of earning a living. These changes no doubt brought them in closer touch with the profession of some of the lower class Hindus and probably some of the Bunas came to be confused with them, while actual fusion might also have taken place. The omission of their names in the four Census Reports might be due to their having been confused with the Bagdis and other lower classes of the Hindu society. On the whole the present number of the distinct Buna people is small.

The actual figures of the Buna population as observed by me is given below :—

District	Total	Male	Female	Different Places
Burdwan	58	33	25	Katwa, Ranigunge, Asansol.
Howrah & Hughli	35	20	15	Howrah & Farasdanga.
24-Parganas	58	30	28	Goalpara
Nadia	220	129	91	Krishnagar, including Goari-Krishnagar, Meherpur, Santipur, Chaudanga, Ranaghat.
Jessore	250	153	97	Jessore, Chaugacha, Kotchandpur, Naha-ta, Ratangunge, Bardia, Mahiskhola, Kalia, Hatbaria, Lohagarah.
Khulna	202	120	82	Khulna, Senhati, Daulatpur, Mulghar, Bagerhat, Rampal.

District	Total	Male	Female	Different Places
Rajshahi	40	27	13	Natore, Rampur- Boalia.
Murshidabad	51	32	19	Cossimbazar
Faridpur	191	102	89	Gopalgunge, Gritakandhi, Ora- kandi, Haturia.
Maldah	57	36	21	Adina, Ramkeli

LANGUAGE

The Bunas speak Bengali with long accents and a fondness for the sounds *a*, *k*, *l* and *n*. The Bengali 'nā' is changed by them into 'ni' and *n* sound in Bengali verbs is often changed into *l* as 'Tumi jabek ni' (you will not go), 'Jaite larbek' (you cannot go). 'Tui,' 'Mui' they commonly use for Thou and I. For polite form of address they use 'Hapni' for Bengali 'Apni' (you).

Long acquaintance with and life in Bengal are gradually changing their phonetics into the language of the parts where they live.

CHAPTER II

ANTHROPOMETRIC STUDY

This chapter contains a general survey of the physical characters of the Bunas, based on 16 anthropometrical measurements and 20 observations. 220 subjects, 200 males and 20 females, were measured and observed by me. From these somatometric data an attempt has been made to study their racial history.

The measurements are taken according to Martin & Sullivan and they have been studied according to the modern principles of statistics.

The observations taken are thus—Skin colour; Hair—Form, Texture, Quantity and Colour; Beard and Moustache; Eye brows; Eye slits; Eye fold; Eye colour; Forehead; Supra-orbital ridges; Nasion depression; Nasal bridge; Nasal septum; Prognathism; Lips; Chin; Angles of lower jaw; and Body.

The measurements taken are thus—Head length, Head breadth, Minimum frontal diameter, Bizygomatic breadth, Bigonial diameter, Nasal length, Nasal breadth, Total facial height, Upper facial height, External orbital breadth, Orbito-nasal curve, Horizontal circumference of head, Head vault, Head height, Height vertex and Height tragus.²

DESCRIPTIVE CHARACTERS

Skin Colour

Male.			Female.	
	No.	P.C.	No.	P.C.
Tawny white	...	3	2	10
Light Brown	...	5	1	5
Pale Yellow	...	2	3	15
Dark Brown	...	110	10	50

² Measuring points or landmarks are taken from Martin—*Lehrbuch der Anthropologie*, Vols. 1 and 2.

	Male.		Female.	
	No.	P.C.	No.	P.C.
Dark Ebony	... 40	20	1	5
Dark	... 40	20	3	15

Hair

Form :—

Straight	... 1	5	...	...
Wavy	... 196	98	20	100
Woolly	... 3	1.5	...	...

Texture :—

Coarse	... 48	24	2	10
Medium	... 140	70	15	75
Fine	... 12	6	3	15

Quantity :—

Normal	... 50	25	3	15
Medium	... 110	55	14	70
Thick	... 40	20	3	15

Colour :—

Black	... 170	85	16	88
Dark Brown	... 25	12.5	3	15
Grey	... 5	2.5	1	5

Beard and Moustache

Amount :—

Scanty	... 30	15	Nil.	
Normal	... 160	80		
Medium	... 7	3.5		
Thick	... 3	1.5		

Eye Brows

Scanty	... 160	80	18	90
Medium	... 36	18	1	5
Bushy	... 3	1.5	...	...
Connected	... 1	.5	1	5

Eye Slits

	Male.		Female.	
	No.	P.C.	No.	P.C.
Straight	... 200	100	20	100
Oblique

Eye Fold

Absent	... 200	100	20	100
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Eye Colour

Iris :—

Dark Brown	... 130	65	15	75
Light Brown	... 20	10	2	10
Medium Brown	... 50	25	3	15

Conjunctiva :—

Clear	... 170	85	18	90
Speckled	... ..	...	...	...
Yellow	... 20	10	1	5
Reddish	... 10	5	1	5

Forehead

Height :—

Low	... 15	7.5	2	10
Medium	... 155	77.5	17	85
High	... 30	15	1	5

Breadth :—

Narrow	... 10	5	2	10
Medium	... 170	85	16	80
Broad	... 20	10	2	10

Retreat :—

None	... 180	90	17	85
Marked slope	... 15	7.5	3	15
Medium	... 5	2.5	...	...

Supra-orbital Ridges

	Male.		Female.	
	No.	P.C.	No.	P.C.
Imperceptible	... 140	70	19	95
Trace	... 56	28	1	5
Moderate	... 4	2	...	...

Nasion Depression

Shallow	... 30	15	2	10
Medium	... 120	60	12	60
Deep	... 50	23	6	30

Nasal Bridge

Straight	105	52.5	14	70
Concave	15	7.5	1	5
Convex	78	39	5	25
Concavo-convex	2	1	...	...

Nasal Septum

Horizontal	110	55	13	65
Directed—				
Upwards	10	5	1	5
Downwards	80	40	6	30

Prognathism

Alveolar :—

None	194	97	18	90
Slight	6	3	2	10
Medium	...	...	...	...

Facial :—

None	130	65	15	75
Slight	50	25	4	20
Medium	18	9	1	5
Marked	2	1	...	...

Lips

	Male.		Female.	
	No.	P.C.	No.	P.C.
Thickness :—				
Thin	20	10	4	20
Medium	170	85	16	80
Thick	10	5	...	...
Eversion :—				
Absent	196	98	19	95
Slight	4	2	1	5
Medium	...	...	...	...

Chin

Prominence :—				
Prominent	199	99·5	20	100
Medium	1	·5	...	...
Receding	...	...	...	...
Form :—				
Oval	186	93	18	90
Round	10	5	...	...
Square	...	...	...	...
Pointed	4	2	2	10

Angles of Lower Jaw

Sub-medium	2	1	...	...
Medium	197	98·5	20	100
Prominent	1	·5	...	...

Body

Musculature :—

Weak	5	2·5	1	5
Medium	25	12·5	12	60
Marked	170	85	7	35

The colour of the skin in the unexposed part of the body varies between tawny white and dark (16—32), majority being between dark brown and dark (26—32).³

From hair it is seen that they are a wavy haired (cymotrichous) people having 98% of wavy hair, though slight number of straight and woolly hair is present, their percentage being .5 and 1.5 respectively. The hair colour is black 85%, though dark brown and grey are often found. Their percentages are 12.5 and 2.5 respectively. The hair growth and texture are medium, 55 and 70 being their percentages. But on the face the growth is normal 80%, and on the eye brow it is also normal 80%.

The eye slit is horizontal or straight. Oblique slit and eye fold are not met with. The colour of the iris is dark brown 65%, though light brown and medium brown are markedly present. Their percentages are 10 and 25. The conjunctiva is clear 85%.

The forehead is moderately medium 77.5% and broad 85%, though it is not uncommon to meet with high forehead, 15%, and broad, 10%, and low, 7.5%, and narrow, 5%. The forehead is vertical 90% and in some cases a slight retreat 7.5% is noticeable.

The supra-orbital ridges are not marked and remain imperceptible, 70%, in majority of cases, though traces, 28%, are not rare.

The nose is generally straight, 52.5%, though convex noses 40% are not an infrequent occurrence. The nasion depression is medium, 60%, though there are good percentages of deep 25% and shallow 15% roots. The nasal septum is horizontal, 55%, though downward directions, 40%, occur.

There is no alveolar prognathism, 97%, but facial prognathism is slight, 25%. Lips are medium 85% with no eversion, 98%, though thinness and thickness occur, 10 and 5 being their percentages.

³ Cf. von Luschan—Skin Colour Chart.

The chin is prominent 99.5% and oval 93%. Sometimes a small percentage of pointed, 2%, and round, 5%, chins are met with. The angle of the lower jaw is medium 98.5%.

The body musculature is marked, 85%, though medium occurs, 12.5%, in the case of males, but in the case of females the body musculature is medium, 60%, and marked, 35%.⁴

Considering the measurements a table is prepared which contains stature, cephalic index, altitudinal index, and nasal index.⁵

TABLE I

			Males.	
			No.	P.C.
Stature	Pygmy	x—129.9	...	...
	Very short	130.0—149.9	5	2.5
	Short	150.0—159.9	165	82.5
	Below medium	160.0—163.9	19	9.5
	Medium	164.0—166.9	7	3.5
	Above Medium	167.0—169.9	1	.5
	Tall	170.0—179.9	3	1.5
	Very Tall	180.0—199.9	...	...
	Giant	200.0—x	...	...
			Females.	
Stature	Pygmy	x—120.9	...	...
	Very Short	121.0—139.9	...	...
	Short	140.0—148.9	13	65
	Below Medium	149.0—152.9	7	35
	Medium	153.0—155.9	...	...
	Above Medium	156.0—158.9	...	...
	Tall	159.0—167.9	...	...
	Very Tall	168.0—186.9	...	...
	Giant	187.0—x	...	...

⁴ No separate analysis of the females is given, for their number is very small (20).

⁵ Ranges are taken according to Martin, *Lehrbuch der Anthropologie*, Vol. I, pp. 198, 199, 202.

TABLE I (Continued)

			Males.		Females.	
			No.	P.C.	No.	P.C.
Cephalic Index	Dolicho-Cephalic	x—75.9	82	41	80	40
	Meso-Cephalic	76.0—80.0	108	54	4	20
	Brachy-Cephalic	81.0—85.4	10	5	8	40
			Males.		Females.	
			No.	P.C.	No.	P.C.
Altitudinal Index	Chamae-Cephalic	x—57.6	...	...	...	...
	Ortho-Cephalic	57.7—62.5	5	2.5	2	10
	Hypsi-Cephalic	62.6—x	195	97.5	18	90
Nasal Index	Leptorrhine	55.0—69.9	52	26	1	5
	Mesorrhine	70.0—84.9	141	70.5	16	80
	Platyrrhine	85.0—99.9	7	3.5	3	15

A table of different characters of the Bunas (Male) is given below :—

(A statistical study of the data, No. = 16.)

TABLE II

Size of sample = 200 for all characters.

	Mean.	S.D. ⁶	C.V. ⁷
Head Length	18.17 ± .02	.43 ± .01	2.31 ± .06
Head Breadth	13.92 ± .02	.51 ± .01	3.66 ± .10

⁶ S.D. = Standard Deviation.

⁷ C.V. = Co-efficient of Variability.

TABLE II (*Continued*)

Size of sample=200 for all characters.

	Mean.	S.D.	C.V.
Min. Front Diameter	9.94±.02	.47±.01	4.72±.10
Bizygomatic Breadth	11.61±.03	.79±.02	6.80±.20
Bigonial Diameter	10.23±.02	.54±.01	5.27±.14
Nasal Length	5.09±.01	.28±.009	5.50±.16
Nasal Breadth	3.74±.01	.29±.008	7.77±.23
Total Facial Height	10.94±.02	.62±.02	5.75±.18
Orbito-nasal Curve	11.67±.01	.18±.005	1.54±.03
External			
Orbital Breadth	10.61±.02	.51±.01	4.81±.12
Horizontal			
Circ. Head	53.25±.05	1.23±.03	2.30±.06
Head Vault	36.26±.02	.84±.01	1.32±.04
Head Height	12.62±.03	.71±.02	5.62±.15
Stature	155.05±.02	4.2±.01	2.70±.01
Cephalic Index	76.01±.01	2.5±.01	3.27±.01
Nasal Index	74.00±.02	6.12±.20	8.27±.02

TABLE II (A)

Similarly another table of females is given below :—

Size of sample=20 for all characters.

	Mean.	S.D.	C.V.
Head Length	18.03±.05	.39±.03	2.16±.20
Head Breadth	14.15±.10	.63±.07	4.88±.41
Min. Front Diameter	9.06±.006	.40±.004	4.41±.32
Bizygomatic Breadth	11.20±.08	.58±.06	5.17±.41
Bigonial Diameter	9.24±.07	.51±.05	5.61±.54
Nasal Length	5.03±.03	.25±.02	4.85±.41
Nasal Breadth	4.00±.03	.19±.02	4.75±.41
Total Facial Height	10.68±.07	.50±.05	4.67±.41
Orbito-nasal Curve	11.21±.07	.47±.05	4.19±.32

TABLE II (A) (*Continued*)

Size of sample = 20 for all characters.

	Mean.	S.D.	C.V.
External			
Orbital Breadth	10.44 ± .09	.60 ± .06	5.73 ± .45
Horizontal Circ. Head	51.02 ± .15	.99 ± .10	1.74 ± .10
Head Vault	36.18 ± .06	.71 ± .04	1.13 ± .10
Head Height	12.21 ± .10	.41 ± .06	5.81 ± .54
Stature	146.60 ± .01	3.2 ± .03	2.18 ± .21
Cephalic Index	76.90 ± .03	2.8 ± .01	3.65 ± .01
Nasal Index	77.50 ± .02	3.0 ± .12	3.87 ± .11

Next we proceed to compare the data with the Santals, the Mundas, the Oraons and the Hos. The data are given below in a tabular form :—

TABLE III

	Stature in centimetres.		Cephalic Index.		Nasal Index.	
	Mean.	S. D.	Mean.	S. D.	Mean.	S. D.
Santals ⁸	161.2	4.1	77.84	3.5	89.2	8.4
Mundas ⁹	158.3	5.5	74.26	2.5	90.2	7.7
Oraons ¹⁰	161.9	3.2	75.46	3.2	87.6	2.4
Hos ¹¹	160.0	5.6	75.0	3.7	82.9	9.5
Bunas	155.05	4.2	76.01	2.5	74.0	6.1

On drawing the frequency curve of stature (Fig. I) of the Bunas it is seen that the mean stature is 155.05 cm., the minimum being 149.0 cm. and the maximum, 177.0 cm. and the range of variation is 32.0 cm. The highest number is at 156 cm.

The frequency curve of cephalic index (Fig. II) shows that the mean value is 76.01. It varies from 63 to 86, the maximum number being at 77.0.

⁸ Risley—*Anthropometric Data*, pp. 413-27.

⁹ *Ibid*—pp. 385-98.

¹⁰ *Ibid*—pp. 400-12.

¹¹ A. N. C. and T. C. D.—*The Hos of Seraikella*, p. 64.

Similarly the frequency curve of nasal index (Fig. III) shows that the mean value is 74.0, minimum being at 59 and maximum at 90. The highest number is at 77.0.

From a study of the frequency distribution it is found that 85% of the Bunas are of short (below 158.0 cm.), 13.5% medium (between 158.0 to 168.0 cm.), 1.5% tall (above 168.0) stature; 41% are dolichocephalic (below 77), 54% mesocephalic (77—82); and 5% are brachycephalic (above 82); 26% are leptorrhine (below 70), 70.5% mesorrhine (70—85) and 3.5% platyrrhine (above 85); while 97.5% are hypsicephalic (above 63) and 2.5% are orthocephalic (58—63).¹²

A table is prepared according to Prof. P. C. Mahalanobis, to test the homogeneity and heterogeneity of the group by the co-efficient of variation (C. V.).¹³

TABLE IV

C. V.	Males.	Females.
2-3.0	5	4
3.1-3.5	1	...
3.6-4	1	2
4-x	9	10

In the case of the males, out of 16 characters 9 are highly mixed, and 10 in the case of females. Thus it can be said that the group is a mixed one.

It is found that the greatest concentration is at C. I. 77 which comprises 64.5% of the subjects. Of these again it is seen that 22 have fine noses, of which 21 are short and 1 medium stature. 25 of these have medium noses (N. I. 70—85) and these 25 are medium statured.

In the flat nosed (platyrrhine) group (N. I. 85—100) there are 6 subjects of whom 5 are of short and 1 of tall stature.

Similarly it is found that a minor concentration is at C. I. 77—82 where there are only 34 subjects. Of these 35 have fine

¹² Ranges are taken after Haddon—Races of Man, pp. 8, 10, 12.

¹³ P. C. Mahalanobis—Analysis of Anglo-Indian Head Length, p. 135.

noses (leptorrhine) of which 30 are of short and 5 of medium stature; 28 have medium noses and of these 16 are of short, 10 medium and 2 tall stature; 5 have broad noses and of these 2 are of short, 2 medium and 1 tall stature.

Though the minor concentration should be at C.I. 82 but that element is practically negligible, *i.e.*, the brachycephalic element here is only 1.5% which has got very negligible importance from the practical point of view, though greater importance should be stressed on racial history.

A chart consisting of stature, cephalic index and nasal index after Haddon is given below :—

TABLE V

S D P ¹⁴	5	2.5%
S D M ₁	74	37 %
S D L	21	10.5%
M D M ₁	25	12.5%
M D L	1	.5%
T D P	1	.5%
T D M ₁	2	1 %
S m P	2	1 %
S m M ₁	16	8 %
S m L	30	15 %
M m P	2	1 %
M m M ₁	10	5 %
M m L	2	1 %
T m P	1	.5%
T m M ₁	2	1 %
S B M ₁	1	.5%
S B L	1	.5%
M m L	1	.5%

¹⁴ M = Medium stature
 m = Mesocephalic
 M₁ = Mesorrhine

The characters, dolichocephalic, platyrrhine, short and medium stature, may be identified with the Pre-Dravidians. The Dravidian type may also be identified with dolichocephalic, leptorrhine, short and medium stature. A blend between the Pre-Dravidian and the Dravidian stocks may probably be dolichocephalic, mesorrhine, short and medium stature. In the case of the Bunas above-mentioned figures are present in good numbers, *i.e.*, 49·5%. Again with the Bunas it is seen that a mesocephalic, mesorrhine, short and medium statured elements are present, *i.e.*, 13%. This may be identified as a result of inter-mixture between the Pre-Dravidian and the Dravidian elements on the one hand and an Alpine or a Pamirian element on the other.

Haddon would call S D M₁, S D L and M D M₁ as typically Dravidian. Thus according to him it is seen that Dravidian plays an important part in the Bunas, though the Pre-Dravidian occurs in a submerged condition or rather the basic element is the Pre-Dravidian.

We then proceed to classify the data of the Bunas according to the process adopted by Prof. Dixon. Prof. Dixon, on correlating the cephalic index, nasal index and the altitudinal index, has classified the people into 27 groups, of which 8 are primary and 19 secondary. On correlating these indices it is found—

TABLE VI

D H P ¹⁵		·5%
D H m	(D H L D H P)	41·5%

- ¹⁵ D=Dolichocephalic
 B=Brachycephalic
 M=Mesocephalic
 L=Leptorrhine
 P=Platyrrhine
 m=Mesorrhine
 H=Hypsicephalic
 O=Orthocephalic
 C=Chamaecephalic

TABLE VI (*Continued*)

M H m	{ D H L B H P }	26 %
	{ D H P B H L }	
D O m	{ D H L D C P }	1 %
	{ D H P D C L }	
D H L		5.5 %
M H P	(D H P B H P)	2 %
D O P	(D H P D C P)	—
D O L	(D H L D C L)	—
M H L	(D H L B H L)	20 %
B H L		1.5 %
B H m	(B H L B H P)	.5 %
B H P		—
M O L	(D C L B C P)	1 %
M O m	(B H L D C P)	.5 %
M O P	(B H L D C P)	—

Analysing the above data the following types are found :—

TABLE VII

D H L	49.75 %	Caspian
D H P	22.5 %	Proto-Negroid
B H P	14.25 %	Palae-Alpine
B H L	12 %	Alpine
D C P	.75 %	Proto-Australoid
B C P	.5 %	Mongoloid
D C L	.5 %	Mediterranean

Of these D C P and D C L are found only by analysis, but in the specimen of measurement not a single Chamaecephalic head is found. This analysis differs from our previous interpretations but the difference is more apparent than real, for according to Prof. Dixon's opinion the Pre-Dravidian and the Dravidian are not pure types but mixtures of Proto-Negroid (D H P) and Proto-Australoid (D C P), and Caspian (D H L) and Mediterranean (D C L) respectively. Thus the final analysis

of the above data is, therefore, coincident with the previous interpretations.

Hence from the above facts the following outline of racial history of the Bunas may be suggested. Thus it is seen that the predominant stratum is formed by Caspian. Proto-Negroid¹⁶ type, with slight indications of Proto-Australoid admixture, has played an important part. Palae-Alpine group has played some noticeable part in the formation of the type. It is not possible to determine the extent of admixture between Proto-Negroids and Palae-Alpines only from the physical data. The Alpine element has played an important part in the formation of the type and it may be suggested that the Alpine elements have been in long contact with this. Lastly from the data it is seen that a Mediterranean and a Mongoloid element have played a negligible part in the formation of the type.

Thus from the actual data it can be said that the Bunas of Bengal are a predominantly mesocephalic, mesorrhine and short statured people. The hair is wavy and black, the skin colour is dark brown.

According to Prof. P. C. Mahalanobis, "while Brahmans, Kayasthas, Sadgops, Kaibartas show a natural gradation and may be classed as true Bengal castes, Bagdis exhibit a number of peculiarities."¹⁷ The Bunas of Bengal present a very mixed character. Even if the original stock was not indigenous to Bengal, an admixture with the Bengali Hindus (specially Brahmans, Kayasthas, and Namasudras and other lower castes) must have taken place.¹⁸ They also show some amount of resemblance with the aboriginal tribes of Choto Nagpur, particularly Oraons, Mundas and Santals.¹⁹

¹⁶ Guifrida Ruggeri calls this Proto-Australoid.

Haddon—Pre-Dravidians.

Hutton—Australoid Veddaic.

Eickstedt—Kolid and Gondid.

¹⁷ P. C. Mahalanobis—Analysis of Race-mixture in Bengal, p. 315, J.A.S.B., Vol. XXIII, 1927.

¹⁸ Similarity is found in Nasal Index.

¹⁹ Resemblance mainly in Cephalic Index.

A group of divergence (D^2) is taken with Oraons, Mundas, and Santals, according to Prof. P. C. Mahalanobis,²⁰ [with a formula $D^2 = \frac{1}{p} Sp \frac{(m_{pq} - m'_{pq})^2}{\delta_p^2} - \frac{1}{p} Sp \left(\frac{1}{n_{pq}} + \frac{1}{n'_{pq}} \right)$, D = group of divergence, p = number of characters, m = mean of q th sample of the p th character of the first, m' = mean of the second one, δ_p = mean standard deviation of both characters, n = number of individuals, and lastly n' = number of second individuals] and co-efficient of racial likeness (c^2) used by Morant, Pearson and others is also considered.²¹

A table consisting of D^2 and C^2 ²² is given below

TABLE VIII
Bunas (200)

	No.	D^2	C^2
Oraons	100	4.73	332.3
Mundas	100	2.42	118.2
Santals	100	2.94	140.1

But according to Prof. P. C. Mahalanobis co-efficient of racial likeness with the tribes of Choto Nagpur cannot be worked out, for he says, "I have shown elsewhere how difficult it is to compare data given by different observers owing to difficulties of standardisation of measurements."²³ He again says, "Risley's conclusions are unacceptable to the critic and, therefore, Risley's data must not be reliable."²⁴

In conclusion it can be said that the Bunas appear to be a highly mixed group, of which the basic stock was probably indigenous to Choto Nagpur, but which subsequently intermixed very considerably with different peoples of Bengal, such as Brahmans, Kayasthas, and Namasudras and other lower Hindu castes.

²⁰ P. C. Mahalanobis—On Tests and Measures of Group Divergence, p. 580, J.A.S.B., Vol. XXV, 1930.

²¹ Biometrika, Vol. XIV, p. 194.

²² Probable error of C. R. L. = .54 in all cases.

²³ P. C. Mahalanobis—On the need for standardisation in measurements on the living, pp. 1-31. Biometrika, Vol. XX, Parts I & II, 1928.

²⁴ P. C. Mahalanobis—Sankhya, Vol. I., Part I, p. 78.

CHAPTER III

SOCIAL ORGANISATION

VILLAGE ORGANISATION

The portion of a village in which the Bunas live is usually called Bunapara. It is almost a separate village in the midst of the village, a collection of huts under shady trees, along the sides of the village road. Some 15 to 20 houses are usually found in a Bunapara, very rarely 25 or above may be seen (Daulatpur and Nilgunge), and occasionally 5 houses have been found to exist at a place such as at Ratangunge (Jessore), Adina (Maldah). The maximum population of a Bunapara is sixty-five at Nilgunge (Jessore), Goari-Krishnanagar (Nadia), and the minimum about ten at Hatbaria (Jessore), Orakandi (Faridpur). Usually the population does not exceed 40. In a village of 40 people the average number of males is 25 and that of females 15. Of the whole population the number of active adults both male and female will not usually exceed 25, some 16 males and 9 or 10 females. Young children will be about 10, and old men and women some 5 or 6.

The Sardars occupy the highest position in the society, next Karmakar, Duli and Mali. But nowadays Sardars are held in respect while no distinction is shown to others. Among them age is respected.

Among the Sardars the eldest male is the chief. But this is not a hereditary post like that of the Oraons of Choto Nagpur.²⁵ The special name for this post is Matabbar.

²⁵ S. C. Roy—The Oraons of Choto Nagpur, p. 217.

The post will be continued till his death. After his death the next senior member of any Sardar family of the village gets the post. There is no ceremony in connection with his inauguration. He is regarded as a usual member of the Buna group. He also serves or works in earth works or as a day labourer. He has no special dress, the only thing is this that other Buna members show respect to him.

The members of the chief's family are regarded as ordinary Sardar family. The advisers of a chief of a particular village are the old male members, one being taken from each family of the village. There is no office nor any official. There is no particular servant or slaves but young adult males may be considered as menials.

The Matabbar or the chief punishes heavily a wrong doer with the sanction of the older members of the village. But slight punishment may be given by the Matabbar alone.

Punishments are :—

1. Caning (1 to 15 stripes),
2. Compensation (4 As. to 5 Rupees),
3. Service (1 day to 2 years),
4. Guilty person is made to beg mercy of the man whom he has wronged.

But they do not "out-group" anyone for whatever wrong he might have done.

(1) If any one does any wrong he may be caned by the members of the council ordered by the Matabbar.

(2) Compensation must be given to one to whom the wrong is done.

(3) Service must be given to one to whom the wrong is done.

All these must be sanctioned by the Matabbar.

If a man A does any wrong to another B of a different village, then the Matabbar of A's village will ask the Matabbar of B's village to try the case.

The council sits at the house of the Matabbar. There is no question of vote. Only the Matabbar asks the opinions of the members. The members give suggestions to the Matabbar.

Descent in the Buna family is always reckoned through the father's line.

Regarding inheritance the Bunas almost follow the Hindus. All the properties are inherited by the son and not by the daughter if married. The sons share the property equally. If a man dies without issue his wife gets the property, and when the wife dies the nearest relatives of the husband get the property. Generally a man dies without any property, he leaves only his house, some implements and animals--no money, no food, etc., are left. If a man has two wives and if he dies leaving the two wives, one with children and the other with no children, the wife who has got children gets the property, and the wife who has no issue gets nothing. If the two wives have children then equal shares will be enjoyed by both. All these things are regulated by the Matabbar alone. If the Matabbar finds any difficulty then he calls all the older members of the village, *i.e.*, his council, and manages to distribute the property. If a man dies leaving only two or more daughters and no son, the daughters share the property. But, if any one of the daughters be married she does not get anything. Suppose if a man has two daughters A and B, of whom A is married and B unmarried, B gets the whole property and nothing will go to A. If a man has two daughters only and both are married and if any one of them has issue and the other none, then she who has no issue gets nothing; the property is solely enjoyed by her who has got issue. But whatever be the case the Matabbar in consultation with the older members of the village gives the decision.

If A and B are two brothers and if A dies leaving only minor sons the property goes to his sons, but B being the uncle controls and manages and even shares the property. If A and B are two brothers and A dies without issue B gets the property.

CLAN ORGANISATION

Risley has clearly pointed out the different endogamous groups into which they are divided, which he calls caste. The names given by him are as follows :—

- (1) Bhuiya
- (2) Bhumij
- (3) Bagdi
- (4) Bauri
- (5) Ghasi
- (6) Kharwar
- (7) Kora
- (8) Munda
- (9) Oraon
- (10) Rajbanshi
- (11) Rajwar
- (12) Santal.

These are mostly the names of various tribes in Choto Nagpur area and clearly indicate the component element of this heterogeneous group. It is interesting to observe how these heterogeneous groups of an allied type of culture gradually fused into a homogeneous body, when settled in the midst of an alien culture.

The process of fusion is best seen in the social organisation. Instead of different tribal units each forming a clan, it seems that the most widely distributed clan names, generally common to all the tribes, were fixed upon. Thus a sort of integration of divergent groups was made. Further some of the names have been Hinduised.

It is clear from the folk-lore of the Bunas that originally they had 12 clans. This number curiously enough coincides with the number 12 into which the major clans of the Santals are divided. The Mundas seem to have originally 13 major clans; the Bhumij also show from their folk-lore to have originally possessed 12 clans, though the present number is 6.

Amongst the Oraons, on the other hand, linguistically quite different from the Munda-Santal group, the number of major clans is 5. It is curious that no major clans have been recorded amongst the less advanced Hos and Birhors, though both of them possess quite a large number of sub-clans.

The number of sub-clans in the first two groups is 5, apparently following an Oraon pattern.

That all the groups which had migrated apparently from various tribal units in Choto Nagpur had become at first completely disintegrated, is apparent from the grouping of the clans in four divisions. Of these four divisions there is a definite hierarchy of rank, the first being the highest of all. The names of these divisions are apparently local to Bengal—at least none of them can be traced to Choto Nagpur. The first group of Sardars indicates the headmen or leaders and we have not here the familiar Santal, Munda or Oraon term for a headman (Manjhi, Mundra and Mahato). On the other hand the clan names show distinct affinities with terms from Choto Nagpur. Thus the term *Shand* is obviously Bengali though it is undoubtedly connected with the Santal clan name *Kara* or the Munda name *Sandi*. So also *Kachchap* or tortoise is common to all the Choto Nagpur tribes and is traceable to several other castes like Bagdi, Ghasi, etc. *Nag* or serpent is also common to all the tribes, but it is not given a place in the highest clan group of Sardar, though it figures in the second group. A type of red bird figures extensively amongst the clan names in all the four clan groups. It is possible that as *Hansda*, perhaps wrongly translated as a goose, figures universally amongst all the tribes as a very important clan name, especially in their cosmogenic legends, this position is given to *Kusa*. Small red birds were in great demand amongst the Austric speaking people of Polynesia and red bird feather was always used in the royal mantle of the chiefs of Hawaii. Thus it seems that some bird ancestry was considered of great importance in their social tradition.

A similar case of a common clan name is that of *Hembrom* (betel-palm). This is not found amongst the clan names of the Bunas, but there is a name of a fruit *Mundi* in the first two clan groups and we are not sure how far this has replaced the familiar *Hembrom* clan from Choto Nagpur.

Thus it is a curious case of several tribes, each rigidly endogamous, which had migrated to a tract where also some form of exogamy and group hierarchy was the dominant culture pattern. If they had settled amongst a non-exogamous people, probably attempts at forming separate clan units would have ceased, though all the allied groups would have coalesced together into a highly individualised section. Having thus not been compelled to give up exogamy, but faced with a limited number of clans from different tribes, only the clans common to all the tribes survived as social marital units.

The division into the four clan groups clearly brings out the process of fusion in the Hindu social system. Apparently the castes into which they could find entrance, such as Karmarkar, Duli and Mali, and admission into which would indicate some elevation of social status, were those which were readily sought for. The next step was to seek admission into still higher groups by phonetic change of surnames into titles which were shared in common by the higher and lower castes. In Appendix II will be found some actual instances of the gradual transference of this group which had originally come from Choto Nagpur into higher social ranks.

These clan groups were also brought about by differentiation of functions according to the pattern of the Hindu caste system :—

Sardars—They are the Matabbars or heads of the groups, or they work as 'Darwān' of a house.

Karmakars—They work as blacksmiths.

Dulis—They beat country drums in the musical party.

Malis—They work in the gardens of the Zamindars or the Indigo planters.

Two other features require some explanation before we finish the social organisation. The first is the existence of definite groups which behave both exogamously and endogamously. Marriage within the same gotra has been observed amongst them in several instances, especially in the three inferior moities. This has been confirmed in several geneological tables (Appendix III). Marriage within the same gotra in India is found amongst several castes, such as—

Bauri—Prohibits marriage between persons descended from same ancestors within seven degrees on the male and three degrees on the female side.²⁶

Chamar—Marriages are regulated by the usual formula reckoning prohibited degrees calculated to seven generations in the descending line.²⁷

Doba—In Bengal members of two groups never intermarry,²⁸ but in Behar exogamy forbids a man to marry a woman who bears a same totem as himself.²⁹

Kamar—First two groups intermarry while the remaining six are endogamous,³⁰ but persons of the same gotra are allowed to marry if they are not of kin within the fifth degree on the mother's line and seventh on the father's line.³¹

Kumhar—A man may not marry a woman of his own section to which his mother's paternal grandmother or maternal grandmother belonged.³²

Muchi—Has no bearing on the prevention of intermarriages between near relatives.³³

Sunri—The rule of exogamy seems to be gradually falling into disuse.³⁴

²⁶ Risley—*Tribes and Castes of Bengal*, Vol. I, p. 79.

³³ *Ibid.*—Vol. II, p. 96.

²⁷ Risley—*Tribes and Castes of Bengal*, Vol. I, p. 177.

³⁴ *Ibid.*—p. 227.

²⁸ *Ibid.*—p. 229.

²⁹ *Ibid.*—p. 231.

³⁰ *Ibid.*—p. 338.

³¹ *Ibid.*—p. 389.

³² *Ibid.*—p. 520.

This feature is not unknown outside India and has been thus explained by Frazer: "Among the tribes in the heart of Australia, particularly the Arunta, Unmatjera, Illpira and Iliaura, the totemic clans are not exogamous; in other words, a man is free to marry a woman who has the same totem as himself. The same holds true of the Kworafi tribe in British New Guinea, of some African tribes such as Wahehe, Taveta, and Nandi and in regard to the numerous nations of the Bachuanas, who are sub-divided into many totemic clans. There is, so far as I am aware, no clear evidence that these totemic clans are exogamous. Among the Central Australian tribes the institution of exogamy is distinct in kind and in origin from the institution of totemism and that among most primitive totemic tribes totemism preceded exogamy. Accordingly the totemic system of tribes, which do not practise exogamy, may be called pure totemism, and the totemic system of tribes, which practise exogamy, may be called exogamous totemism. The Banks Islanders have both totemism and exogamy in the purest and most primitive forms, like Arunta and other tribes of Central Australia, they keep the two institutions distinct from each other." ³⁵

"The resemblances between the conceptional totemism of Banks Islanders and that of Central Australians are very close indeed. In Banks Islands as in Central Australia the institution of totemism and exogamy exist independently side by side without mingling with or in any way affecting each other. In both places the exogamous clan is a totally different thing from the totemic group or clan. Here we have pure totemism and pure exogamy." ³⁶

The last thing for consideration is the totemic significance of the clan names.

³⁵ Frazer—Totemism and Exogamy, Vol. IV, pp. 8-11.

³⁶ *Ibid.*—p. 281.

TOTEMISM

Totemism was the basis of social and political organisation of the Bunas in what may be roughly called the hunting and day-labouring stages of Buna culture, and still forms the fundamental feature of their social organisation in so far as kinship, relation of sexes to a certain extent, etc., are concerned. Individual totems, sex-totems are not found among them. The fauna and flora of their past and present habitats naturally supply the bulk of the totem names.

Beast Totem	—	Shand (bull).
Bird Totem	—	Kusa } kinds of red birds.
		Chura }
Aquatic Animal		
Totem	—	Kachchap (tortoise).
Reptile Totem	—	Nag (serpent).
Flower Totem	—	Champa (kind of flower).
Fruit Totem	—	Mundi (kind of fruit).
Metal Totem	—	Sona (gold).

The Bunas give very few traditions of the origin of their totems. Such traditions as they have, do not give us any idea about the descent of man from their totems. All that they indicate is that the totemic animal or flower or fruit is believed to have helped or saved the ancestor of the gotra or in any way been of service to him.

Some legends of the origin of the gotras are given below :—

It is said that a Buna of early times was about to catch a tortoise. The latter exclaimed, “ Don’t catch me, as I am your relative.” The Buna did not catch it and from that his descendants came to be known as Kachchap (tortoise) gotra.

One day a Buna was sleeping under the shade of a Banyan tree and the sun was peeping on his face, when a snake

(cobra) passing by that side and finding him in that condition spread its hood to give proper shade to him. When the Buna woke from his sleep he found the cobra. The Buna asked it, "Why are you here?" At this it answered, "I am your relative." Thenceforth the descendants of that Buna came to be known as Nag (serpent).

Once upon a time a Buna fell ill and a Kaviraj was passing by that way. The Kaviraj then gave him some medicine which contained a large quantity of gold. The Buna then was relieved from illness and began to entertain a strong faith in gold. And his descendants came to belong to Sona (gold) gotra.

A Buna once killed a bull and ate its flesh but threw away its entrails. The life of the bull remained in the entrails and the slain bull was seeking an opportunity to come into another body and at last that slain bull was seen moving about in actual bodily form. Then he was afraid of it and the descendants of that Buna came to constitute the Shand (bull) gotra.

A Buna boy was hunting birds with bows and arrows, when he aimed at a Chura bird. It told him, "Don't kill me, I am your relative and will supply you with other birds for your hunting." At this the boy resisted from hunting it and his descendants who came later on are known as Chura.

Once in the evening a bird (Kusa) fell on the top of the hut of a Buna and the members of the family were very eager to drive it away. Then the head of the family called all the children of the village. The children came and the bird understanding the nature of their assemblage said, "Don't kill me, the day will come when I shall be at your service." The Buna people did not pay attention to its words and they began to throw small pieces of stones, but the most astonishing feature was this that no piece of stone fell on its body. In the meantime "a Gunin" (foreteller) was passing by that way, he became very much curious to know the matter. As soon as he entered

the yard of the Buna's house, all exclaimed, "Kill, eat." The 'Gunin' then told them not to kill, for that bird was the descendant of Fortune. Then suddenly hearing this all were tongue-tied and became very much astonished. Then all dispersed and actually on the following morning the Buna got a pitcher full of eggs and a few coins. Henceforth the descendants of that Buna came to constitute the Kusa gotra.

In early times there lived a Buna. Once he fell ill. His illness continued for a long time. All the Bunas assembled together with their Matabbar and discussed what to do with the illness of that Buna. They then reported everything to the 'Shaheb' or Indigo planter. The 'Shaheb' took special care for him but could not make him fully recovered. Then one night he dreamt, "If you eat Mundi fruit you will be cured, but do not allow anybody else to eat it." On the following morning the Buna hastened to the house of the Matabbar and related everything in detail. The Matabbar then allowed him to eat it. The Buna ate it and afterwards he became all right. From that time he had a great reverence for that fruit and hence his descendants came to be known as the Mundi gotra.

A couple of Bunas were once going to a place, and on the way they found beautiful flowers blossoming on a tree. They had a great desire for taking these flowers. But they were in a hurry. Nevertheless they came to the spot for the flowers. They then took a few flowers and went on their way. Coming to the bank of a river they found a boat sinking. This boat had left the shore a little before. If they had not waited to pluck the flowers, they would have got into that boat, as they intended crossing the river, and so would have gone down with it. Therefore they came to regard the flower as their rescuer. Their descendants have got the gotra name "Champa."

Totem animals, fruits, flowers and metals are all looked upon by the Buna with great respect and veneration. They would in no way do any injury to these.

TERMINOLOGY OF RELATIONSHIP

The Buna terms of relationship³⁷ have been collected from seven different districts of Bengal. The first collection was made at Jessore, then Khulna, Faridpur, Nadia, 24-Parganas, Burdwan and lastly Maldah. In the selection of these seven places we were actuated by a desire to examine the degree of Hindu influence on the relationship terms of the Bunas. It is common knowledge that people generally do not change their relationship terms and they are very particular in sticking to these conservative terms; if we find any change we may attribute it to some strong external influence.

It is said by Dr. Rivers that the terminology of relationship is determined by social conditions.³⁸ "Linguistic and psychological causes sometimes determine the form and nature of some of the relationship terms, though we cannot entirely rely on these for a proper and thorough explanation of the whole system. The common as well as the peculiar forms of terminology of relationship as met with among the savage and civilised can only be satisfactorily explained on the basis of their origin from particular social conditions."³⁹ This principle is established by Dr. Rivers. He says, "According to my scheme, not only has the general character of systems of relationship been strictly determined by social conditions, but every detail of these systems has also been so determined."⁴⁰

We now examine the materials in the above-mentioned way. The relationship terms of the Bunas are a classificatory one though the descriptive system is not unknown. The term 'Vai' includes these persons—father's elder and younger brother's sons, father's elder and younger sister's sons, mother's brother's sons and mother's sister's sons and lastly step brothers (by different father or mother). The term 'Boan' includes—

³⁷ For relationship terms, see Appendix I.

³⁸ Rivers—*Kinship and Social Organisations*, p. 1.

³⁹ A. N. C. and T. C. D.—*The Hos of Seraikella*, p. 51.

⁴⁰ Rivers—*Kinship and Social Organisations*, pp. 93, 94.

father's elder or younger brother's daughters, father's elder or younger sister's daughters, mother's elder or younger sister's daughters, mother's elder or younger brother's daughters, step sisters, husband's other wives, husband's elder or younger brother's wife. Again the term 'Dadu' indicates—father's father, father's father's brother, father's father's sister's husband, mother's father and mother's father's brother and lastly mother's father's sister's husband. 'Daduma' denotes—father's mother, father's father's brother's wife, father's father's sister, mother's mother. 'Vaiput' includes—father's brother's son's son, elder brother's son, younger brother's son, husband's elder brother's son, husband's younger brother's son. 'Boanput' denotes—father's brother's daughter's son, sister's son. 'Boanjhi' denotes—sister's daughter, husband's brother's wife's daughter. 'Vaijhi' denotes—elder or younger brother's daughter, husband's elder or younger brother's daughter. Again 'Bei' denotes—son's wife's father, daughter's husband's father; and similarly the term 'Beain' denotes mothers of both.

Lastly the term 'Bowu' denotes the wife, father's elder son's wife, brother's wife.

The descriptive terms are 'Ma' (mother), 'Baba' (father), etc.

But lastly we see that the influence of the Hindus on the relationship terms of the Bunas is more real than apparent. They have adopted the linguistic appellations of the Hindus fully which have in some way disturbed the sociological background.

FAMILY

A Buna family consists of husband, wife and their children. Husband is the head of the family but if the elder brother of the husband be present he will be the head of the family. No one of the family has the right of life and death over any member of his family.

Authority does not wane in old age. Each member of the family does not hold separate property. All the properties belong to the head of the family. A woman may hold all forms of property if she has no relations ; if she has husband, sons or relatives (males), she cannot hold any.

Children (boys) become independent at the age of 12 or 13, *i.e.*, when they are in a position to earn their livelihood. But they cannot dispose of their property at their free will when the head of the house is alive.

There is no special arrangement for the orphans and posthumous children.

Generally adoption is very rare but still it may be found. A man may take an adopted child with the permission of the Matabbar of the village. Generally, a male child is adopted, for they believe that if a man dies childless (sons) he does not go to ' Baikuntha ' (heaven).

A man should take an adopted son of his own gotra of the same class. For this he is not required to give any feast nor make any arrangements, only he will have to pay something to the Matabbar. The payment is eight annas only. But the only thing is this that he shall have to pay something to him or her from whom he is taking the child. The amount may vary from 15 to 20 rupees or in some cases it may be a bit less.

A married couple is not entitled to take any adopted child so long as there is any possibility of their begetting children.

The adopted child is eligible to inherit all the properties.

Adoption should take place before puberty (6 to 10 years of age).

If a mother dies or is unable to give her child milk then another female of their group, whether a relative or not, is requested to suckle it instead. She is asked only to suckle and she will have no right over that child. Some remuneration may or may not be paid to her. The remuneration when paid does not exceed rupees five and is to be sanctioned by the Matabbar.

A Buna child may be reared up by a wet-nurse till he attains the age of four or five years. The children reared by the wet-nurses always remain very grateful to them.

DAILY LIFE

Generally the people of the group are independent. Male children up to the age of adolescence and puberty are dependent on the parents. Every adult member, male or female, is an earning member. Women commence earning soon after they are mothers of two or three children. Generally the Buna people are very early risers. "Adult Oraons, male and female, will get up from bed in the morning at about four o'clock in the cold weather and about three o'clock in summer and the rainy season."⁴¹ Among the Birhors it is found that "Men rise from their bed at cock-crow."⁴² The Bunas use the method of brushing their teeth with 'Arshali' or 'Neem' branches, the women generally use tobacco-leaf-ashes. When brushing teeth in early hours of the day the neighbours generally assemble in a common yard or on the road side and indulge in talks of recent hunting excursions or any rural incident of interest. After an hour or more they take sumptuous breakfast either with cooked rice of the previous night preserved in water (Panthabhat) along with burnt pepper and salt, or with their home made 'Chira' along with some molasses or other sweets. They generally engage themselves in earth work and off they go for this with their spade (kudali) and basket. The womenfolk follow the males in the breakfast, after which they go out to milk the cows and tether the domestic animals in the grazing fields. The little ones are supplied with their breakfasts along with their parents and after that some of them go out into the field for grazing the cows, sheep, etc., and some go near a pond or a river or a small canal for fishing purposes.

The Bunas seldom sell milk. They consume cow's milk themselves with their children. They sell goats, kids, and goat's

⁴¹ S. C. Roy—The Oraons of Choto Nagpur, p. 199.

⁴² S. C. Roy—The Birhors, p. 52.

milk. They also sell pigs, duck eggs, fowl eggs and lambs, etc. 'Chira' is also supplied to the local market by them.

The womenfolk also go out to work in the locality in threshing paddy, in pasting with mud and cow-dung thatched houses with earthen plinths, and for doing sundry other domestic services in the village. The little children are given 'Muri' (fried rice) in small cane baskets to keep down hunger. The womenfolk generally return by 10 or 11 A.M., and engage themselves to their household affairs in cleansing the house and cooking, etc. Among the Oraons "one or more women go to draw water from some spring, well, tank or stream and one proceeds to cook rice, vegetables, etc."⁴³ In the Birhor society it is seen "when day-light appears, the women go to attend to household work."⁴⁴ The Buna women take their meal along with their children at mid-day, *i.e.*, 2 or 3 P.M. The malefolk generally return home at 2 or 3 from their work, and take their meal after finishing their bath in public tanks or river, and seldom do they go out after their meals. "The Birhor men return home generally late in the afternoon."⁴⁵ The Buna males either lay themselves down on a 'mat' and chat over the evening on 'Hukhas' with friends. Cattle is brought home by the children. The womenfolk go to the local market in the evening and sell and buy food articles. After that they return home and engage themselves in cooking. They take their night meal at about 8 P.M. and after that they all go to sleep. But on the hunting day they take their meals at late hours in the night.

ATTITUDES AND MOVEMENTS AND PHYSICAL POWERS

The Buna is strong in his limbs and erect in his bearing. His body is well balanced and feet firmly planted in walking. His legs are straight but toes are arranged in such a fashion that he can walk and run. When walking his hands are placed on the

⁴³ S. C. Roy—The Oraons of Choto Nagpur, p. 200.

⁴⁴ S. C. Roy,—The Bihors, pp. 52, 53.

⁴⁵ *Ibid.*—p. 55.

sides rather than in front, going backwards and forwards. The habitual posture for sleep is flat. When he takes meals he generally sits down with his feet on the ground and his knees turned upwards. An average adult Buna male can carry a load of more than two maunds on his shoulders as well as on his head without any difficulty. The Buna female can carry a load on her head, or she can carry a pitcher of water on her left waist with her left hand round the neck of the pitcher.

The Buna is a good tree climber, especially the male one. The femalefolk is less expert in climbing trees. The Buna generally does not use any mechanical aids except for climbing cocoanut and palm trees. They use rope for this.

Riding is not usual with the Bunas. Very few can ride a horse.

The average youngman is good at running and jumping. An average Buna can run long distances—two miles or more at a stretch at an average speed. He is a good walker too. He can walk about twenty to twenty-five miles at a stretch.

The art of rowing and paddling is unknown to them. They can swim well.

RULES OF HOSPITALITY

Much hospitality is shown in social gatherings and also in daily life. A guest is allowed to live in his host's house. He is not allowed to go to live in the Matabbar's house. The host may take the guest to the Matabbar's house for introduction simply and nothing else. Every Buna family observes the rule of hospitality most attentively. It is almost a religion with them. To entertain guests is a personal thing. If a guest happens to turn up on festive occasions, he will be requested to join that festival party. The guest must join the party and there all will welcome the guest with great joy.

A guest is usually a person who stops at a house on his way to some other village where he may have some business or to visit some friends or relations. The guest has to make no payment.

BIRTH

No special ceremony is associated with the child-bearing period. The pregnant woman during her pregnancy takes too much pungent and sour food and sometimes she feels a keen appetite for burnt earth. The woman during pregnancy is considered liable to be easily possessed by evil spirits which haunt unholy places and trees of ill-fame such as 'Sara,' tamarind, 'Gub,' bamboo and other trees, and a raven is also considered as a metamorphosed devil hunting about on the lookout for an opportunity to possess a pregnant woman. Approach of the night, dusk, evening and midnight are considered as opportune moments for supernatural beings to steal an entrance into the body of the victim, to wreck both the mother and the foetus.

Twins are not very common. Birth of children with extra limbs such as twenty-two fingers, with a tooth, or a ear cut, is considered as very ominous both to the mother and to the child.

The woman during labour is attended to by some old female members of the group who work as midwives. The umbilical cord is pared off by a thin sharp-edged bamboo splint by an old female and earth and oil are used to stop bleeding. Among the Hos of Seraikella it is found that "in cases of normal labour the mother is unattended and she herself severs the umbilical cord with a strip of bamboo. In cases of difficult labour women of Ghasi caste deliver the child."⁴⁶ The cord is fomented by the thumb heated on the flames of an oil lamp. The child just after birth is washed with warm water and anointed with mustard oil. A black paste of smoke and mustard oil is put on the forehead, to protect the child from the bad influence of evil spirits. Mustard oil or sometimes honey is put into the mouth of the baby immediately after birth. The lying-in room is made of mat on one side of the verandah and generally no bed is provided. The mother and the child lie

⁴⁶ A. N. C. and T. C. D.—The Hos of Seraikella, p. 22.

there for 8 days, *i.e.*, they are ceremonially unclean for 8 days. Similar observances are found among the Mundas. "A Munda female is considered ceremonially unclean for 8 days after a child is born."⁴⁷ No one is allowed to go into the confinement room, only one female member of the house gives her food. Food must be hot rice instead of stale rice. Similar observance is found among the Mundas of Choto Nagpur. The mother is not allowed to eat stale rice but must take hot rice instead. The birth of a living child is announced by the 'Ulu' sound five times in the case of a son and three times in the case of a daughter.⁴⁸ The birth of a son is more desired and the birth of a son at the first delivery is considered glorious both for the mother and for the father.

On the 8th day after child-birth the nails of the fingers of the mother and of the baby are pared off and they take their bath in a stream or tank and their houses are washed with cow-dung water and 'Tulsi' water. After this they are regarded as ceremonially cleaned and are allowed to resume ordinary life. Similar customs are found among the Mundas of Choto Nagpur. "Then the mother of the baby accompanied by a number of female relatives proceeds to a neighbouring stream or tank for ablutions."⁴⁹

The grandfather or the grandmother or the eldest person in the family gives the name on the 8th day after purification, according to his or her fancy. Children of the neighbours are given fried rice, 'Chira,' peas, and grams. There is no special name of this ceremony but among the Mundas of Choto Nagpur the name is 'Sakhi,' and this ceremony is done on the 9th day of the birth.

Attack of tetanus is supposed to be caused by the evil influence of the couple of the evil spirits 'Pencho-Penchi,' and various offerings are promised to propitiate the spirits and the spirit charmers are requisitioned at great costs.

⁴⁷ S. C. Roy—The Mundas and their Country, p. 457.

⁴⁸ Purely a Hindu influence.

⁴⁹ S. C. Roy—The Mundas and their Country, p. 458.

Cow's milk is given drop by drop with a piece of cloth from the date of its birth. The mother's milk is given as soon as it is available and continues so long as the milk is available in the mother's breast, irrespective of the age of the child, if the mother be not again pregnant.

Infanticide is never practised. Abortion is practised generally with the root of a plant called 'Rakta-chita' to save the widows and the unmarried from shame. Raw juice of the 'Rojel' bark is also largely used for bringing about abortion. The community extensively practise contraception, owing to the low morality of the females, with the juice of the betel plants along with powdered black pepper, during menstruation in three or four successive periods. It gives immunity for four or five years.

INITIATION CEREMONY

PUBERTY RITES

When a Buna boy attains puberty, that is 15 or 16 years, he has to undergo ceremonial purification like the Oraons, by taking sanctifying draught consisting of water in which are dipped leaves of 'Tulsi,' and on that day he will not be allowed to come out of his hut nor eat anything or sleep during these 24 hours. On the following day he will be a full member and shall have to provide his friends and relatives with sumptuous food—pork, rice, and doses of 'Bhang' or wine.

At 12 or 13, at the first sign of puberty, the girl is put in confinement for 7 days. Some food restrictions for the girl are found during these 7 days.

1st day—No food.

2nd day—Gruel.

3rd day—Rice without salt.

4th day—Rice with salt.

5th day—Rice, pulse, etc., no fish.

6th day and 7th day—Rice and fish, no meat.

8th day—All restrictions withdrawn.

On the 8th day womenfolk indulge in dancing in a covered yard full of clay, all naked and performing all sorts of vulgar and indecent gestures performing a mimic show of conception and child birth. No man is allowed to enter there and no music attends such dancing.

EDUCATION

In point of education the Bunas may be regarded as one of the most backward people of Bengal. Literacy is quite unknown. I have found only two persons technically literate amongst them. One of them is aged about 25 and he can read and write a little Bengali, having visited a village pathsala for about one or two years during his boyhood. The other is a boy of about 12, and has been reading in a village patshala (Mohishkhola, Jessore). In a report of the Backward Classes, the number of literates among the Bunas has been stated to be four.⁵⁰ The cause of this absolute illiteracy is to a certain extent their want of eagerness for any kind of cultural education. Their untouchability and economic conditions may also be partly responsible for this. Even when economically sound, the Buna has no craving for sending his boys to school. The only education they acquire is through companionship and imitations of the older members of the society. The influence of the cultured neighbours may permeate but very slowly and on the whole they are keeping up almost entirely their old manners, customs and habits.

MARRIAGE

The Bunas are divided into four endogamous groups—Sardars, Karmakars, Dulis and Malis, which are again divided into numerous sub-divisions or 'Gotra.' Marriage within the Gotra is strictly prohibited among the first group, *i.e.*, the Sardars. But

⁵⁰ Annual Report of the Society for the Improvement of Backward Classes, Bengal and Assam, for 1932-33, p. 34.

among the other three groups this rule is not binding. Marriage within the Gotra may take place avoiding prohibited degrees up to five generations in the male line and three generations in the female line.

Early marriage is the rule of the society. Girls above the age of one and below eight are considered highly fit for marriage. The age of the boy varies between six and sixteen. "Early marriages are not infrequent amongst well-to-do Mundas in these days, especially in the eastern Parganas of the Ranchi district. The days are still remembered when no young Munda could marry before he was able to construct a plough with his own hands, nor would a Munda girl be given away in marriage before she could with her own hands weave mats with palm leaves and spin cotton."⁵¹ "A Birhor boy is generally married when he is about 20 or 21 years old and a girl when she is about 16 or 17."⁵² In the Oraon society adult marriage was the rule. "A young man would rarely think of marriage before he was at least 18 or 19 years old and a girl would not be married before she was at least 15 or 16 or even later. But now this state of things has changed in most parts of the Oraon country. Now-a-days Oraon boys are generally married between the 16th and 20th year, and in some cases even at a lower age than 16 and in a very few cases higher than 20; and Oraon girls are generally married between their 13th and 16th years, and in some cases below 13 and in few cases at a higher age than 16."⁵³ "Marriage among the Bhumij of Orissa is generally adult, though infant marriage is not rare among the wealthier families."⁵⁴ "Marriage is usually adult in Ho society, child marriages are unusual, but sometimes occur among the rich and influential families."⁵⁵

⁵¹ S. C. Roy—*The Mundas and their Country*, p. 436.

⁵² S. C. Roy—*The Bihors*, pp. 142, 143.

⁵³ S. C. Roy—*Oraon Religion and Customs*, p. 137.

⁵⁴ T. C. Roy Chowdhury—*The Bhumij of Orissa, Man in India*, Vol. IX, 1929, p. 103.

⁵⁵ A. N. C. and T. C. D.—*The Hos of Seraikella*, p. 24.

Marriage negotiation is conducted by the Matabbar of the community, the father or the guardian and sister's husband of the bridegroom. There is no professional match-maker. The work of the middleman is done by one member of the community. When a boy has to be married, the Matabbar, his father, his sister's husband and some of his friends go to the house of the bride's father. There they are entertained and are given tobacco and 'bhang' and then the girl is shown to them. If the parties are agreeable, the date for performing the marriage ceremony and bride price, etc., are discussed. The parties then pay the girl 2 annas as a present. Such things are also seen among the Oraons. "The boy's people may make a small present of 4 as. or so to the girl on this occasion."⁵⁶ After that they return home. 2 or 3 days after, the girl's father, with their Matabbar as the case may be, come to see the boy. Here they are also given tobacco and 'bhang.' The girl's father gives the boy a copper, brass or silver ring according to his purse, and the boy salutes the Matabbar first and then the girl's father. After this the date for marriage is fixed. They fix the date of marriage according to the Hindu customs. The 3 months, 'Vadra' (August and September), 'Paus' (Dec. and Jan.) and 'Chaitra' (March and April) are inauspicious for marriages. A few days after the bridegroom's party go to see the girl again and this time a ring (copper or silver) is presented to the girl. The girl then salutes the Matabbar first and then the bridegroom's father and then others. 3 or 4 days before the marriage both the bride and the bridegroom in their respective houses are rubbed with turmeric paste and are bathed. This ceremony is called 'Gaiholud.'⁵⁷

On the day of marriage the bridegroom party marches to the house of the bride and gives feast for three successive days to the friends, relatives and the co-villagers of the bride, meat

⁵⁶ S. C. Roy—Oraon Religion and Customs, p. 142.

⁵⁷ Seems to have been borrowed from the Hindus.

constituting the chief course of the meals. They are not very fond of garlicks along with meat dish.

The bride goes round the bridegroom in the arm of an elderly person for seven times⁵⁸ and is made to change garlands of yellow or red flowers with the bridegroom. The bridegroom generally wears a red bordered cloth and a yellow bordered scarf while the bride is dressed in a red bordered 'Saree' and is completely veiled.⁵⁹ The pair has to bow down to the Matabbar first and then the bride is helped to get on the top of the father's hut and the bridegroom cries out, "Parislara, Parislara, tuka kudali kora khaabek," *i.e.*, the bridegroom promises to maintain her with the earnings of his work with spade and solicits her not to fall down. After performing these rites the couple is conducted inside the hut where they are fed together by the hand of an elderly woman, specially the grandmother, and the womenfolk cut jokes with them. Next follows the feasts of wine or 'Bhang' and drinking by both the sexes at the cost of the bridegroom party. The rest of the night passes in revelry of dancing by the females in company and in harmony with a small drum-like musical instrument called Madol, or in the absence of that, Dholoke. The feast, drinking and dancing continue for three long days the bridegroom party remains at the bride's house. On the day of marriage, when the bridegroom with his party comes to the house of the bride, the father of the bridegroom gives the bride the following articles :—

- (1) 20 to 25 rupees as dowry.
- (2) Ornaments including Nose-ring, (Nauth and Nolak), ear-ring (Makri), wristlet made of glass, copper or silver, leg ornaments (Mal).
- (3) Household articles—pots made of earth or brass, plates, mats and beddings including pillows and mattress.

⁵⁸ Following Hindu system.

⁵⁹ Hindu influence.

And the father of the bride in return gives the bridegroom the following articles :—

- (1) Spade (Kudali), bows and arrows.
- (2) Spear (Bhela).

But the Kudali or spade is the essential article of present at a marriage, without it no marriage is valid. The function of the priest is done by the Matabbar, though no 'mantras' are uttered. The function of the Matabbar is only to supervise the ceremony as a legal and religious head.

The second day is the ceremony of vermilion painting and conch wearing. On that day in the noon both the bridegroom and the bride are bathed and they play with young women of the village by painting their bodies with soft clay and earth. This is known as 'Kadamati' play. After that the bridegroom paints the forehead of the bride with vermilion, and puts bracelets of conch shells on the wrists of the bride and then recites, "Ami muchh be na, ami bhangbe na" *i.e.*, "I shall not wipe out the marks of vermilion nor shall I break the conch, *i.e.*, I shall be true to the wedlock." The inner meaning of this is that the couple will have a happy and faithful life. Then on the third day the bridegroom party returns home with the bride and it is customary that the elder sister or the grandmother should accompany and stay for a short period, *i.e.*, 3 or 4 days, in the bridegroom's house and go back with the couple. The bride seldom returns to the groom's house before she attains puberty. Sometimes, according to necessity and when the father-in-law has only one daughter, the bridegroom settles in his family as a domesticated son-in-law.

A Buna can marry as many wives as he can maintain.

Polygamy is usually encouraged by the Matabbar, especially when the first wife of a man is barren. Polygamy is practised by the Hos of Seraikella. "A Ho may marry two sisters but in such cases he must marry the elder sister first,"⁶⁰ Among the

⁶⁰ A. N. C. and T. C. D.—The Hos of Seraikella, p. 25.

Bhumij "polygamy is sometimes indulged in by the wealthier family, the barrenness of the first wife being the main cause."⁶¹ But in the Buna society polyandry is unknown. The practice of junior levirate or the custom of marrying the deceased husband's younger brother is in vogue. But no ceremony is performed in connection with this. If she has got any issue by her former husband, that issue may get the property of the second father, but he or she may or may not address him as father.

Marriage by service is practised by the Bunas. The bridegroom lives in his father-in-law's house and serves him for 6 to 9 months to gain his daughter as wife. If the father-in-law is pleased, he gives his daughter in marriage with the man thus serving under him.

The Buna society allows the widow to remarry. In cases of widow remarriage the general usual ceremonies are absent. The permission of the village Matabbar gives the sanction of a legal marriage and a simple feast is necessary to celebrate the occasion. "A Munda widow can remarry only in the Sagai form in which the detailed ceremonies required for marriage are not gone through."⁶² "The marriage of an Oraon widow or widower can only be celebrated in the Sagai form. In this form of marriage ceremonies are much less elaborate than in the regular marriage of a bachelor to a maiden."⁶³ Among the Bhumij "widows are allowed to marry according to the Sanga form in which all the ceremonies of a regular marriage are not performed."⁶⁴ There is another sort of marriage among the Bunas, in which a widow lives as the wife of a man of her selection without formal ceremony.

When a married girl attains puberty and is left alone, the husband is unheard of, or takes no care of the wife for over 2 years, or is unable to maintain her, she is considered abandoned

⁶¹ T. C. Roy Chowdhury—*The Bhumij of Orissa*, p. 106.

⁶² S. C. Roy—*The Mundas and their country*, p. 456.

⁶³ S. C. Roy—*The Oraon religion and custom*, p. 171.

⁶⁴ T. C. Roy Chowdhury—*The Bhumij of Orissa*, p. 106.

and becomes free to marry again with the sanction of the Matabbar similarly as a widow.

The following are the main grounds for divorce :—

- (1) Detection of adultery.
- (2) Practice of witchcraft by the wife.
- (3) Barrenness of the wife or impotency of the husband
—in such cases the innocent party is permitted to marry again.
- (4) Conversion of the husband or the wife to Christianity or Mahammadanism, or when Hinduised.

No ceremonies are required to effect a divorce, but only a nominal permission of the Matabbar is required.

FUNERALS

The Bunas generally bury their dead bodies, but there are some places in the district of Jessore, *viz.*, Mohiskhola, Lohagorah and Nahata, where cremation is practised. Deaths due to poison, snake bite and suicide are treated in the following way : an earthen pitcher is tied by means of a cane rope round the neck of the deceased and the deceased is thrown into the river, with the idea that in such cases the life may be saved even after a long time and consequently the body should not be completely destroyed. When a pregnant woman dies the foetus is taken out by an incision in the abdomen. The incision is then stitched up by means of fine thread. They are then buried under a ' Bat ' tree (banyan), and if there is no suitable site a branch of that tree is planted near the house. The idea is that the foetus will live on the juice of that tree. Similar practice is seen among the Bhumij of Orissa. But the Bunas differ from the Bhumij in the way that the Bhumij bury the embryo under the Mahua tree.⁶⁵

At the time of death all the doors and windows should be opened and he or she should be stripped off of all clothings and

⁶⁵ T. C. Roy Chowdhury—The Bhumij of Orissa, p. 108.

if anything, such as ornaments, be on the body, it should be removed, so that the soul may not find any obstruction in its way out to heaven. Similar practices are observed among the Birhors of Choto Nagpur. "When a Birhor is at his last gasp, his son, wife and all stand aside or walk out of the hut leaving the door open, so that the departing soul may not meet with any obstruction in its way out. Sometimes necklaces, armlets, anklets and similar ornaments are taken off the limbs of a dying woman to facilitate the escape of her soul."⁶⁶

The dead body is taken out into the courtyard of the house through the usual door with the head to the south and feet to the north. Among the Bhumij of Orissa it is found that "after death the body is brought out of the house and placed in the courtyard with the head to the south."⁶⁷ "When an Oraon dies, the dead body is taken out into the courtyard of the house by the usual door with its head to the south and feet to the north."⁶⁸

When the dead body is taken out of the hut cow-dung water or 'Gobarjal' and 'Tulsi' water are sprinkled on the floor of the hut and doors are shut. The doors are not opened before three days have passed. They believe that the soul of the deceased hovers over the hut for three days. After taking out of the hut the dead body is placed on a 'Machang' or 'Chali,' a sort of stretcher made of bamboo splints, in the courtyard. The dead body is then anointed with a paste of turmeric, bathed in cold water and is covered over with a new piece of cloth. Similar practices are observed among the Hos and the Bhumij. "Before cremation" among the Bhumij "the body is rubbed with oil and turmeric."⁶⁹

The Hos of Seraikella anoint the dead body with a paste of turmeric and mustard oil, bathe it and give it a new piece of cloth.⁷⁰

⁶⁶ S. C. Roy—The Birhors, p. 262.

⁶⁷ T. C. Roy Chowdhury—The Bhumij of Orissa, p. 108.

⁶⁸ S. C. Roy—The Oraon religion and customs, p. 172.

⁶⁹ T. C. Roy Chowdhury—The Bhumij of Orissa, p. 108.

⁷⁰ A. N. C. and T. C. D.—The Hos of Seraikella, p. 28.

If the dead body be of a married woman, whose husband is still living, vermilion mixed with oil is anointed on her forehead and instead of an ordinary cloth, a red bordered 'Saree' is given. And if she be a widow, then no vermilion is required and an ordinary cloth is given.

Relatives and fellow-villagers on hearing the news must hasten to the deceased's house, each carrying some paddy in a small basket or in a nut shell (Shupari khola) and place them on the 'Machang' or 'Chali.' Whether the dead be male or female, only the adult males are allowed to carry it to the burial ground or 'Goresthan' and old females follow the party. But pregnant woman must not take part in the rites. If an old man dies, the name of god 'Hari' is sung or rather 'Harisankirtan' party goes with the funeral party.⁷¹ When the party reaches the burial ground the old females proceed to the dead and place some rice and pulse and one lighted earthen lamp on the south of the deceased's head, and on one side of the head a real or false spade or 'Kudali' is placed and all (both male and female) pray: "Now you have given us up. We give you rice and pulse to eat. To light your way we give you this lamp, and for your work in the other world we give you this spade. Go taking all our sickness and sins."

"While putting rice into the mouth of the corpse, the Oraon women address the deceased saying, "Take, eat. Now you have given us up. You have seen your way. Go taking all our sickness and sins."⁷² The Bhumij also observe this rite. "The son of the deceased repeat the prayer thrice, thou art—thou givest me thy blessings."⁷³ The body is then buried in a flat posture with the face upwards.

After burying the dead one 'Tulsi' tree or its branch is placed on the grave and a lamp is lighted. The lamp is lighted

⁷¹ This is purely Hindu influence.

⁷² S. C. Roy—Oraon Religion and Customs, p. 174.

⁷³ T. C. Roy Chowdhury—The Bhumij of Orissa, p. 108.

for three successive evenings so that the soul may go finding its way through the dark space to the other world.

All the members of the family of the deceased and relatives are considered unclean for nine days. On the tenth day they only shave and on the eleventh day they go to the river side or the side of a tank with the Matabbar and pray for the peace of the soul in the other world. On the twelfth day curd, home made 'Chira,' etc., are fed to those who attended the funeral party, and if the person be a rich one, 'luchi' etc., are fed. Then in the evening they dance and sing taking 'Bhang' or country-made liquor. After the death of his mother the Buna will never drink milk, for milk, they think, comes only from the mother. And he does not take plantain if his father dies, for 'he is the plantain of his father.' They observe annual 'Sradh' ceremony.

In the case of cremation similar rites and observances are performed. The dead is burnt by means of mangoe wood.⁷⁴ After that a lamp is lighted on the cremation ground as has been described before in the case of burial.

Connubial quarrels on very rare occasions lead to suicide.

The usual way of committing suicide is by means of a rope tied round the neck and hanging from a tree or in the room from a bamboo beam or by taking the stone of 'Karabi' fruit.

The spirit of a person committing suicide does not go to heaven (Baikuntha) and no ceremonies are attached to it nor even any funerals are done. They simply throw the dead body into the river.

Suicide is not a common practice. If any one is found out trying to commit suicide he should be sent to the Matabbar for trial. In this case the Matabbar alone can try the case and punish him—generally with caning or a fine (Re. 1).

⁷⁴ This seems to have been borrowed from the Hindu neighbours.

MATERIAL CULTURE

HOUSE

The Bunas live in a village in one particular part of it and the locality is called the Bunapara. The compounds of the houses are not walled up. The houses are huddled together and assume a spectacle of one family house. A Buna family generally consists of three huts. Among the Oraons it is found that the "average Oraon tenant has 2 huts."⁷⁵ "The majority of Munda houses consists each of at least two huts. The residence of a well-to-do Munda family consists usually of three or four huts."⁷⁶ The Bunas live in closely set, thatched of 'Golpata' houses of low heights, standing on plinths of two or three cubits high, as a protection against flood levels, whereas "the floor of the Oraon hut is slightly raised above the level of the ground."⁷⁷ "The floor of a Munda's house is usually raised one or two feet above the ground."⁷⁸ The roofs of the Buna huts are inclined and are formed of two sheets covered with 'Khar' or 'Golpata' spread over bamboo structures and tied generally with wild creepers, canes, and sometimes, with ropes. "For ropes used in house-building, the Mundas gather 'Chop' or the fibre of a leguminous creeper which grows wild in their jungles."⁷⁹ The highest point of a Buna house where two sheets meet is called the 'Matka.' The hut stands generally on bamboo posts and where fund permits, the posts are of country timber such as 'Somrail.' In a well-to-do family a verandha is attached which serves the purpose of an outer room, which the courtyard would otherwise furnish. The walls of the hut are generally made of closely split bamboo (Kachni) plastered with

⁷⁵ S. C. Ray—The Oraons of Chota Nagpur, p. 172.

⁷⁶ S. C. Ray—The Mundas and their Country, p. 383.

⁷⁷ S. C. Ray—The Oraons of Chota Nagpur, p. 173.

⁷⁸ S. C. Roy—The Mundas and their Country, p. 384.

⁷⁹ *Ibid.*

mud and smoothed with cowdung. Amongst the Mundas of Choto Nagpur it is found "the walls of the houses are generally of mud but sometimes, specially in the western parganas, walls of split bamboo are met with."⁸⁰ Windows in a Buna hut are generally absent or, if at all present, an apology for it could be noticed in small openings on the walls generally kept closed with mat-shutters. "Windows are conspicuous in their absence in Munda houses."⁸¹ The huts have only single entrances like those of the Oraons, serving the purpose of the doors which are closed by the 'Jhaps' made of split bamboo and mats tied by rope or cane. In comparatively poor families the walls are found to be made of thick set of jute sticks (Patkhor). The Bunas are particular in erecting their huts facing the west. A Buna family has seldom more than one hut to accommodate them. When the number of the family increases the females and the younger ones lie inside the room and the males and older folk sleep in the night on the verandha following an Oraon and a Munda pattern. Among the Oraons "small verandha is attached to the hut and serves as the sitting place and old men generally sleep in this verandha."⁸² "Well-to-do Munda houses have verandha or Oaris in one or sides of the main house. These Oaris are often enclosed wholly or in part with low mud walls and used as lumber rooms, and sometimes as an additional sleeping room."⁸³ The Bunas usually lie down upon mats made of date tree leaves or palm tree leaves known as 'Chato.' Sometimes, when they can afford, they erect a 'macha' (bamboo-made cot) and spread it over with a mat to lie down. They also gather 'bichali' or stalks of paddy to give them the comfort of mattress and warm their beds in winter.

The kitchens of the Bunas are of the same type as their main huts but are of a very small size and much lower

⁸⁰ S. C. Roy Chowdhury—The Mundas and their Country, p. 384.

⁸¹ *Ibid.*

⁸² S. C. Roy Chowdhury—The Oraons of Choto Nagpur, p. 173.

⁸³ S. C. Roy Chowdhury—The Mundas and their Country, pp. 383, 384.

plinth. They are erected closely on the northern side of the main hut. The kitchen has no verandah. It contains their humble utensils and the fire hearth dug into the floor. They usually take their meals in the open yard, and when the weather is unsuitable they retire to their verandah. The females and the children may be seen to dine in the kitchen. The females gather fuel from the neighbouring orchards and store the fire wood in the outer sheds of the huts.

The cattle shed is an open room without any plinth lying in the west of the yard. The cattle is kept tied to the post in that hut at night. They keep the ducks and fowl now in kerosine wood boxes brought from the market and sometimes erect an earthen structure with a very big vault in the plinth something like a cave in a hill or it may be described to be something closely similar to a bakery oven, with a small opening just to permit entrance to ducks, etc., and shut it up in the night with 'Jhapi' similar to their own door shutters. The pigs are kept in an open enclosure beyond the cattle shed stoutly fenced by 'Kacha' plants and with cross bars of split bamboos with a door strongly fastened by rope or sometimes with iron chain.

The Mundas of Choto Nagpur have separate kitchen but no separate hut for cattle. "The Mundas who cannot afford to have a separate cattle shed use a portion of the 'giti-ora' or the sleeping room for the purpose."⁸⁴ Among the Oraons it is found that they have separate cattle shed but no separate kitchen. "The bigger hut is ordinarily divided into two main compartments, the larger compartment serving the purposes of a sleeping room, dining room and kitchen—and the smaller compartment serving as the lumber room and granary. The smaller hut is used as cattle shed and a small verandah attached to the cow shed serves as the pig-sty."⁸⁵ Thus here

⁸⁴ S. C. Roy—The Mundas and their Country, p. 383.

⁸⁵ S. C. Roy—The Oraons of Choto Nagpur, p. 173.

the Bunas have been influenced by their neighbours in having cattle enclosures which are not to be found in Choto Nagpur.

The Buna house is particularly neat and clean. Almost invariably every day the plinths, walls and the floors of the huts are given the mud and cow-dung pastes, and the courtyard too is brushed with cow-dung water.

The Bunas have no separate sanitary arrangements in their houses which is a marked contrast to the neighbouring villages.

SOCIAL AND MAGICO-RELIGIOUS CUSTOMS IN CONNECTION WITH BUILDING A HOUSE

When a Buna first occupies a hut newly built, he generally gives feast to his neighbours or to the whole villagers according to his purse.

When a Buna intends to build a new house, he places in an evening neatly on the selected site one or two ' bhat ' (rice) touched by none other than the Matabbar or his wife. If the rice be taken away by any birds, insects, cats, rats, etc., then that Buna will abandon the idea of selecting that place. In case the rice particles be not taken away and is found in the place intact the selection would be a fine one, and misery attends him who builds a house on the spot where the rice test fails. Similar customs with rice particle divination are practised among the Oraons of Choto Nagpur.⁸⁶

Food

Their usual food, like that of their neighbours, mainly consists of boiled rice, cooked vegetables, pulse, fish curry etc. Fish they scarcely purchase from the market but take what is usually caught by themselves. It may be said that they have very little religious prohibitions about food. They are fond of both fowl and pork and consequently shunned equally by the Hindus and the Mahammadans. Meat is certainly not their common diet

⁸⁶ S. C. Roy—The Oraons of Choto Nagpur, pp. 174-75

but occasional luxury. But beasts or birds or plants that form the totem of a particular clan are taboo to that clan, as is also found among the Oraons⁸⁷ and Birhors⁸⁸ of Choto Nagpur.

They usually take three meals in a day and night. One meal is taken in the morning after which they go out for work. The second meal is taken after their return from work at about 3 P.M., and the third meal is taken between 7 and 8 P.M. Besides meat their luxurious food are cakes which they prepare at home with powdered rice, molasses and plantain. Cakes are usually prepared and taken in the winter and they observe the last day of the month of 'Paus' in preparing cakes which they call 'Pithaparban' or the festival of cakes.

Though fond of wine they cannot prepare it in their own homes on account of legal restrictions. In former times they kept distilleries, but at present they are forced to purchase wine from the shops. However they use a sort of mild intoxicant prepared by fermenting date juice or palm juice for a few days in the sun. Sometimes the palm juice is completely evaporated in the sun leaving a sort of white powder at the bottom of the vessel. They preserve this powder and call it 'Chherkha,' i.e., yeast. This they take now and then as a mild intoxicant and thereby satisfy their craving for drinking. For 'Bhang' (Cannabis sativa) they have not to run to shops, as these parts of the country abound in wild 'Bhang' plants. They collect the leaves, make a paste and drink it with water or milk and sugar.

During illness their usual diet is gruel, 'chira' or 'Soti' water and milk. 'Soti' is usually found in the jungles or occasionally purchased from markets.

DRESS

Peculiarities of the Buna dress have almost died out giving way to the local custom of the place the Bunas live in. Traces may still be detected. They generally put on shorter cloths not

⁸⁷ S. C. Roy—The Oraons of Choto Nagpur, p. 165.

⁸⁸ S. C. Roy—The Birhors, p. 99.

hanging below the shin. The males would put on cloths with one end taken between their legs and turned down into the back side of the waist round which the other end is coiled and tied up. Seldom they would hang a 'Kocha' excepting on ceremonial occasions such as marriage, etc. The cloths they usually put on are obtained from the markets and are of the length of mill produced nine cubit type. They are fond of variegated bordered cloths. The females love to put on broad bordered 'sharies' with a breadth not hanging below the point half way between the knee and the ankle. The length of the cloth worn by the females is also shorter than that of the neighbouring Hindu womenfolk as the Buna women do not commonly cover their heads by the cloth in the way of veils. The females, however, like the Mundas and unlike the Oraons, cover the upper parts of their bodies with the cloth raising it from the back side of the waist and along under the right arm on the left shoulder covering the whole region of the breasts, the loose end hanging on the back going down the buttocks, or when occasion requires as manual work, dancing, etc., she would gather the loose end and tie it fast round the waist. The females have not yet been accustomed to the habit of putting on chemise, blouse, petty-coats, etc.

The females have borrowed the pattern of tying hair of the Hindu females of the neighbourhood and use porcupine pins in the knots of the hair to satisfy their sense of decorum instead of silver or golden pins used by the Hindus. They comb their hair with combs obtained from the market, or in poorer families, with the skin of the dried 'nata' fruit, which being thickly beset with thorns is used to comb the hair. They anoint the hair with cocoanut oil obtained from the market. But toileting of this kind is not very frequent. A Buna young woman can arrange for a toileting seven or eight times a month. Vermilion is with oil painted on the line parting the hair in the middle, and 'tip' on the forehead is also given. These are probably in imitation of the Hindu society. The males go naked in their upper part all the year round excepting in winters when they cover

their bodies with blankets available in the market. The use of 'panjabis' and coats is also found among them. Commonly the Buna carries constantly with him a 'gamcha' (napkin) which is tied round the head as a pad when they carry baskets or loads on their heads. They also wear the 'gamcha' as a sort of turban to protect the head against the scorching rays of the sun when they work in the summer sun.

The children generally go about naked much like the little Oraons. But the practice of putting on shorts is fast progressing.

The Buna males and females all go bare-footed all the seasons of the year.

The scantiness of the Buna dress is due to the condition of the climate of the habitat and poverty.

ORNAMENTS

The Buna males generally put no ornaments on. Of course instances are not rare that they put a ring on the ring-finger made of brass or sometimes of guttapurcha, conch shell, etc. Youngfolk are sometimes seen to have placed a 'puthi-mala' (garland of beads) of blue, white or amber colour round their necks. This sense of decoration of the body by the youngfolk is in par with the Oraons⁸⁹ and the Mundas⁹⁰ of Choto-Nagpur.

The desire to decorate the body is immense with the womenfolk of the Bunas. From the very childhood the female parents exhibit great eagerness to make her child fit to put on ornaments. Instances are too frequent to describe it almost as a custom that the female child's nasal septum is bored through as early as she is one month old and a fine 'Neem' twig is put in to prevent the closing of the puncture. Nose-gays (Nolak) are found to be hanging from the noses of the children when they have

⁸⁹ S. C. Roy—The Oraons of Choto Nagpur, p. 100.

⁹⁰ S. C. Roy—The Mundas and their Country, p. 369.

just got a hard vertebra to keep them erect in sitting and scrambling. The lobes of the ear are often bored when the child grows a little elderly. The instrument generally used for these purposes is the porcupine pin. Left alae of the nose is bored often at the request of the husband and 'Nauth' ornament is presented to the wife as a token of love and prosperity. This 'Nauth' however is made of brass studded with coloured glass specks. The practice of putting on 'Nauth' is prevalent among the Mundas.⁹¹ They wear 'tip' on their forehead, between the eyebrows, of the green shells of 'Kanch-poka' which glitters like the variegated neck of the peacock. The Buna women put on round their necks, according to the pecuniary condition of the family, 'Kamranga,' i.e., 5, 7 or 9 plum (narikeli kul) shaped amulets of brass tied to a red or black tape. 2 'Sankhas' (conch shell bracelets) on each wrist distinguish a woman from the unmarried. Silver 'Churi' and glass 'Churi' are also put on by the Buna women. Silver or brass rings on the fingers are very much cherished. 'Tagi' a kind of black or red tape, is worn by them round their waist. Anklets (Mal) of brass and toe-rings are found in well-to-do families.

The Buna widow puts off her ornaments and refrains from all sorts of decoration. But the re-marriage removes the ban and shakes off the grim mantle of austerity.

The Buna girls afforded with very small means to satisfy their great lust for decoration find only a few antiquated patterns of the cheap metals, but nature itself favours them with the charming beautiful look, the spontaneous outcome of vigour and health of full life, grown "in sun and shower."

TATTOOING

Tattooing amongst the male Bunas is practically absent. The practice is fast dying away amidst the females too.

⁹¹ S. C. Roy—The Mundas and their country, p. 368.

Reminiscence of the old custom is still found here and there in the persons of the females. In very old days the females would tattoo themselves almost all over their bodies, prominent parts being the forehead, nose, the breast and neck, the arms and palms of the hands. The Bunas call the practice as 'woolki' (tattooing) and the wearing of 'woolki' is known as 'woolki-para.' It is done artistically often on the designs of creepers, flowers, coronets, serpents, etc. In later stages the predominating Hindu influence sometimes would give shape to these 'woolki'—the sacred names of the popular gods such as Kali, Hari, Krishna or Siva, copying the 'Namabolis,' greatly used by the Vaishnabas and the Hindu priests. No doubt the presence of the practice of tattooing amongst the females alone speaks volumes in favour of the idea of enhancing personal grace or beauty. But the system carries with it some impression that it infused in the body a protective power against all sorts of evil influence practised by lustful males to seduce females by means of occultism or magic.

So far information is available and to an extent seems reasonable that in days long gone by the instrument of tattooing was either provided from some jungle thorns or the porcupine pins. But in recent times needles have replaced them. Human milk pinned into the subcutaneous region by the needles completes the whole process of tattooing and the sore when healed up leaves permanently a bluish tinge on the skin. No dye is used for this purpose. The same process is prevalent in wearing tattoos by the Hindus though not of course so widely and in such large scales.

PAINTING

Painting of the body either by the males or females is almost unknown, but like the Hindu women and probably by the same influence the female Bunas dye their feet all round the fringes with 'Alta' (Sanskrit—Alaktaka).

CLEANLINESS

The Bunas as a whole are a group of clean people. The idea of cleanliness is innate in them and much is due to imitation. The male Bunas are foregoing the practice of nursing crisp and long flowing hair, emblem of prowess and courage. The modern influence has inspired them to the cropping of the hair like the youngfolk of the Hindu society and look smart. However they are used to the shaving of beard. The females keep long hair and tie it into a knot on the back side of the head. Both the sexes pare their nails both of the fingers and toes. But the keeping of the little finger nail is markedly frequent. They use it for scratching and clearing the excretions of the ear holes. Both the male and the female Bunas rub their bodies well with mustard oil, with the idea that thereby they would season their system and the skin would be free from bad smell and invasion of itches. Cloths, wearing apparels, napkins are cleaned commonly with the ashes of the plantain tree bark. The Buna women clean their heads of dirt with oil cakes, earth and soda. But in the sphere of cleanliness the industrial products of soaps, etc., are making long strides.

ECONOMIC LIFE

The economic life of the Bunas is very interesting. It seems that they still maintain the form of society whose main occupation was hunting and fishing, though these no longer afford a complete means of livelihood in their new environments. They have here also not their own lands to fall upon for crude agricultural pursuits which formed a useful supplement in their livelihood. Originally they were brought into Bengal as indentured labour where landless labour is scarce. Even to-day, they are required in large numbers in the harvesting season. Specially when large scale farming is attempted, as in the tea gardens of Assam at the present day, large numbers of labourers have to be recruited from Bihar and Choto Nagpur generally. So in the old days of Indigo plantation, it is quite likely, that large numbers were brought in from Choto Nagpur area and they are at present known as Buna or wild man. They still form the purely labouring class in the parts they inhabit. With the abolition of the Indigo factories the Bunas naturally took to employment in the neighbouring houses as day labourers. Other factors such as steady drain of the village population towards the towns leading to the neglect of the villages also necessitated more and more a set of day labourers to look after the fields and the Bunas well supplied the need. The villagers usually employ them to work in their gardens, or as carriers or to sweep the courtyards, etc. As they are untouchables they are not allowed to do any work inside the houses. They have also been found to be employed largely by contractors in making and mending roads, making brickbats, and carrying bricks, etc. They are also largely used by the villagers in chopping wood for fuel. Besides day labour there are a few old occupations of their native home which some of them pursue with profit. A small number has also been found to

take to the calling of blacksmith and making 'daos,' spades, axes, etc. They are not usually found to accept service as regular menials. Males and females equally take part in the work of road-making, etc., while the women have sometimes been found to serve as part-time menials in washing utensils and sweeping the courtyards.

They have never been found as vagrant beggars in streets. But extreme poverty may lead some of them to collect rice scattered on the ground after a harvest and try to live on this.

They rear some of the domestic animals such as cows, sheep, goats, geese, ducks, poultry, swine and dogs. They have never been found to sell milk, though they have taken to drinking milk like their Hindu neighbours. They usually sell eggs in the local market and export the wool of the sheep to distant markets.

They have also been found to prepare and sell 'Chira' (flattened rice) in the markets. 'Chira' is prepared by the womenfolk, who boil the paddy and flatten it under the 'Dhenki' or the Indian husking machine. This has been found only among the Bunas of Mohishkola and the neighbourhood.

HUNTING

The other occupations to which they have now resorted, are usually hunting, fishing and bird-catching. They are very fond of hunting porcupines, hares, and wild boars. For this purpose they always keep 'Bhelas' (Javelines), 'Daos,' etc. Porcupine-hunting is very amusing in its nature and is of great value to the people of these parts, as these animals are very destructive to root plants like arum, potato, radish, etc. In a moonlit night they go in a band and hide themselves under a bush near an arum or potato field and keep themselves prepared with blocks of the trunks of plantain trees. As soon as a porcupine makes its appearance they throw plantain trunks towards it. Its quills sticking in the soft but heavy plantain

trunk disables it from making any movement. Then the hunters rush out from their hiding place and beat the animal with their sticks. Sometimes they sit with their 'Bhelas' most patiently and silently waiting for hours together in front of the mouth of a hole of a porcupine in order to pierce the animal to death the moment the thorny quills make their appearance.

Porcupine is much relished by them though it is not so much liked by the other people of the country. The quills they sell or use themselves as hair pins for their females or ornaments boring the lobes of the ears or combing the hair.

But their courage and adventurous spirit is most shown in boar-hunting. In Bengal villages wild boars are sometimes most dangerous to the people and their fields. Unlike the people of other parts of India the Bengal Hindus dislike bacon and are afraid of the animal's wild nature, while the Muhammadans have religious aversion for these animals and will not utter their name even. So the appearance of a boar near a village makes the people almost helpless and these Bunas then come forward prepared with their 'Bhelas' to the rescue. They go out in bands into the jungle outside the village and begin to beat the bushes to drive out the boar into the open space. As the boar will rush out from the bush the most courageous and strongly built person among the bands will sit on the ground pointing forward his 'Bhela' resting on his shoulder appearing like a knight of old with lance in rest. A boar dashes forward in perfect straight line and so aiming is very easy. But if missed the life of the hunter is in a dangerous situation. Expert hunters know the tricks and will in the twinkling of an eye move a little aside allowing the boar to pass in rapidity of its motion. This will usually take the boar to some distance and some time is lost in its turning back and again attacking the hunter. In the mean time the hunter himself will turn and again keep himself ready with the javelin in position. In boar hunting excursions it is not unoften that dangerous wounds, sometimes ending fatally, are received by some members of the hunting party. After all

these labours, when a boar is killed, the joys of the Bunas know no bounds. The legs of the boar are tied with a strong rope through which a long bamboo pole is passed and the animal is thus carried home on the shoulders of the men. Reaching home they make a fire and burn the whole animal—practically a sort of baking; then the meat is dressed and divided among themselves.

The preparation of the domesticated pig for food is rather amusing. Immediately before killing the animal it is made to swallow a quantity of unboiled rice and some spices. Then the animal is let loose and some men begin to strike it with 'Bhelas.' In short this sort of domesticated pig-killing is obviously an imitation of their old hunting activities. The plaintive screaming of the wounded pig will scare away any man of feeling, but it is a very amusing sport to the Bunas. After killing the animal they make a fire and burn it, rather long, to boil meat as well as the contents of the stomach. Then thrusting a knife into the abdomen and opening the stomach, they take out the rice and spices which is now considerably cooked. The meat is then dressed and the rice is taken with the meat with great relish.

FISHING

As the Bunas do not sell fish, fishing is resorted to usually by young ones among them as an amusing sport as well as for the sake of food. They use a large variety of fishing traps and implements which most probably they learnt from their Hindu neighbours, because Choto Nagpur is not a place abounding in fish. In spite of the scarcity of fish there the Oraons have been found to use a variety of fishing traps for their personal use.⁹² Probably the Buna habit of not selling fish has come down from Choto Nagpur, but their greater cleverness and using a larger variety of traps have been acquired in Bengal.

⁹² S. C. Roy—The Oraons of Choto Nagpur, p. 159.

The usual fishing places are small rivers, canals, bils, road-side ditches and tanks. They do not go out in boats to catch fish with large nets in the big rivers. Even they have not been found to use nets at all. Sometimes a lonely Buna may be found trudging along the swampy banks of a river with a long fishing rod or sitting on the wet bank with wonderful patience. The fishing rod is made of bamboo and the line is usually a silken or hemp cord. The fishing hooks are purchased from the markets or made by their own blacksmiths. The common baits used are earth worms, grubs found in wasp nests, grubs of red ants, and other sorts of butterflies and insects. Small mustard cakes (Khoil) got from the oilmen, rice and flour are also used. Sometimes small fishes are used as baits in catching large fishes. But the use of the fishing rod is neither the commonest nor the most amusing to these people. And on account of their poverty they cannot usually enjoy the amusing sport of fishing in the reserved tanks of rich people for catching large preserved fishes, but companies of young Bunas may often be found noisily clamouring over a number of different kinds of traps in the muddy waters of the bils, canals and road-side ditches. The traps are usually made of slender bamboo sticks tied together in different shapes and varieties with strings made of creepers and cane. The different forms and shapes of these traps have their usefulness in catching different kinds of fishes, and have different names for them.

HOCHA—is a kind of triangular trap. Three bamboo sticks are tied together in the shape of a triangle, from which is hung a sort of triangular basket made of very thin bamboo sticks and tied together with strings of cane. The size of this trap is sometimes as large as four cubits on each side. The basket is filled with bushes, leaves and small branches of trees and placed in the river or canal water near the bank, with the base outside and the vertex of the triangle towards the shore. It is kept stationary in the running water with rope tied at the centre of the base rod and with a tree on the coast. This is placed usually

in the evening, and next morning the rope is slowly pulled, the base rising first prevents the fishes from escaping with the stirring of the water.

DOAR—is made of thin bamboo sticks approximately in the shape of a cylinder, the mouth is quite circular but the back is triangular. The back portion is tied to the main body with cane strings and can be opened, and this is done to bring out the fish from the trap. At the mouth a conical valve of very thin bamboo sticks is inserted. The point of the cone will open very easily with a little inward push, but on account of its form an outward push will close it altogether. So fish can easily enter through it but cannot come out. This is placed in small canals or road-side ditches and wherever there is a current. The mouth is placed towards the direction of the current, as fishes have the peculiar characteristic of always swimming against the current. Usually minnow (Kai), Magur, Khalisa and Singhee fishes are caught in the Doar.

TOOBO.—There is another kind of trap called Toobo, which is also made of thin bamboo sticks, tied together with cane strings in the shape of a box. There are small vertical openings in the two longer vertical sides, one in one side and two in the other. Two long vertical sticks are tied on the other two sides. Some boiled rice is put on the floor of this box, and the whole is then plunged in water, with tops of the two long vertical sticks, attached to the two sides, remaining a little above water. Fishes enter the box tempted by bait and after some time it is suddenly lifted out of the water holding the upright sticks. In this trap only very small fishes, called Chuna fish in Bengali, are caught.

Besides these, they use a few fishing weapons, 'Arho' (fishing trident), 'Jooti' (detachable polyprong), and 'Koch' (und detachable and hookless polyprong).

ARHO—is a long bamboo rod with 3 slightly bent iron hooks attached at one end and a long cord tied at the other. The cord is held firmly in the left hand and the weapon is thrown at a large fish with the right hand. If the aim is accurate

and the fish is struck the hooks stick in its body and with the help of the cord it is drawn up. In this way big fishes like Sol, Gazar, Rui, Katla, etc., are caught in clear water.

JOOTI—is also made of a bamboo pole, at the one end of which 6 to 10 thin bamboo sticks are firmly tied. At the end of each bamboo stick there is a bent iron hook similar to those of the trident but easily detachable. Each hook is tied to its stick loosely with a string. At the other end of the long bamboo pole there is a cord like that of the trident. Its use is similar to that of the trident, the only difference is that it can be thrown to a greater distance and on account of the detachable hooks the sport of the fish is more enjoyable. Moreover the slender bamboo sticks of the hooks spreading wide at the time of throwing necessitate less accurate aiming.

KOCH.—A large number of long slender bamboo sticks with iron points are firmly tied together at the other end in the shape of a small handle. This is thrust forcibly into the water down to the very bottom and then slowly lifted with one or more fish caught at the points. This can be used even in muddy water and no proper aiming is necessary.

BIRD-CATCHING

The Bunas do not usually take to bird-catching. No method of shooting birds or trapping them like the Choto Nagpur people, is usually found among them. But they are fond of catching and eating the flesh of bats, the night flying birds. This may be regarded considerably for the sake of amusement. But the Bunas have a belief that the flesh of the bat is a curative as well as a preventive for night-blindness, as the bats can see in the darkness.

Two kinds of traps have been found to be used by the Bunas for catching bats. A long net is spread vertically in the air from one tree to another or on two tall bamboo poles. After night-fall

the bats flying swiftly are obstructed in the course by the net and usually stick in the entanglements of the net. The Bunas come in the morning and catch the bats easily as they are unable to see in day-light. This is known as 'Badur-fans' (bat trap). The other method of catching bats is with the means of 'Chahir.' This is a long bamboo pole, at one end of which a number of cane shoots, full of hooked thorns, are attached. With this they strike at a bat and the thorns stick to its body or the thin skin, of which the bat wings are formed, are torn, rendering the bat incapable of flying and then it is drawn out and caught.

These are the various means of their livelihood and pastimes. The peculiarity in the economic life of the Bunas is that they are not very fond of money. Some food or a small piece of old cloth is sufficient remuneration to make a Buna serve for a whole day. Their fondness for wine is gradually increasing their craving for money. Their habits are most extravagant and whatever money they may find in their pocket in the evening they will immediately run with to the nearest wine shop. Though they may be paid for their services in kind and barter system is still in vogue to a certain extent amongst themselves, money to-day is their chief medium of exchange. However, they do not cherish any ideas of making provisions for the future nor have they any economic habits. On the whole the Bunas are a very lazy people and will not work for a pound when starving on a penny. It is said, if a Buna leaving his bed in the morning finds his pot full of rice sufficient for the day's consumption, he will not go out to seek work.

RELIGION

The Bunas call themselves Hindus, though all the rites and practices are not followed by them. They possess the idea of one Godhead, whom they call 'Sing-Bhonga' (Great God), and heaven is full of the followers of the Great God. Thus herein they betray unmistakably their affinities with Choto Nagpur tribes. Heaven is beautiful, peaceful and the abode of the gods and the blessed. They believe in a soul, which will pass away into heaven if the man live a virtuous life in this world. Even if sinful the soul of a man may pass into heaven if his children and relations duly perform the funeral ceremonies. Hell or netherland is the prison-house of the heavenly kingdom. They have no clear idea of the transmigration of the soul. But it may be suspected that on account of the constant communion with the Hindus they have grown a sort of vague idea about it, and may be found to make scattered reference to the theory in their conversations. At funeral a lamp, a spade and some rice and pulse are placed in the grave with the dead body or on the funeral pyre, as the case may be, with a view to enabling the soul to live a peaceful life and work for livelihood in the other world. Unlike the Hindus they have no idea of 'Suttee.' If a man had married a number of wives in this world, after death all the wives would share their marital lives with the husband in the other world. So they believe in the existence of a sort of polygamy in heaven. But a widow who remarried, will live with her first husband in the other world. Polyandry being unknown in their society, they cannot think of polyandry in the other world. There is also new marriages in heaven for the boys and the girls dying in this world before their marriages.

Though they believe in one Great God, no particular form of worship for him is found to exist among them. This is also

in keeping with the Santal practice of generally not being in awe for the great 'Sing-Bhonga,' while other gods and godlings get a greater share of worship in rituals. Most of their worships have now been taken from their Hindu neighbours. Their selections of the Hindu worship point to a desire of seeking help and relief. Fear and supplication for relief have played greater influence in exciting their feelings of worship. Their selections of 'Kali' and 'Manasa' pujas are examples of this, while 'Biskaram' puja is an example of their desire for seeking help. The sense of beauty and peace excited by the touch of civilisation might have given them the choice of 'Kartic' puja. But though surrounded by civilisation they have still preserved one of their original forms of worship which is undoubtedly an example of worship out of fear. This is known as the worship of 'Andharima,' or the dark mother. The worship takes place in the new moon night of the month of 'Chaitra.'

'ANDHARIMA'—The months of 'Chaitra and Baisak' (April and May) are notorious for the sudden outburst of violent tornadoes of short range and short durations sweeping away everything in front of the blast. The poor Bunas after such a blast find themselves shivering in the open without a shelter for the head and all their fruit trees, etc., destroyed. It may be that to appease the wrath of such a violent god they took to the performance of a worship in the beginning of the season of these blasts. The whole ceremony is awe-inspiring, and quite in keeping with the nature of the blasting thunderstorms. At dead of night a woman is painted completely black and is made to stand on a small earthen platform. All the people of their society, including male, female and children, wildly drink wine and 'Bhang' and smoke 'Ganja' and wildly dance or jump round that painted woman in accompaniment of the beating of drum (Madol) constantly shouting 'Hai,' 'Hai,' 'Hai,' without apparent significance. The painted woman is also drunk and may after some time fall flat on the platform. But careless of all these the people will go on jumping and crying in mad fury

throughout the whole night and at the close of the night in tired voices praying for the help of the appeased 'Andharima' they lie down on the open yard almost unconscious till sun-rise.

'KARTIC'—The other pujas of the Bunas are practically taken from their Hindu neighbours, and in these pujas the images are also borrowed. Their lacking in artistic sense is to a certain extent manifested in the 'Andharima' worship without an image. In the 'Kartic' puja performed on the last day of the month of 'Kartic' (November), the barren women pray for beautiful children, and the unmarried girls for beautiful husbands. An earthen image of the god is purchased from a Hindu potter and worshipped after dusk. The Bunas have no regular priest. The 'Matabbar' of the village acts as the priest. The god is worshipped with the offerings of flowers and no regular 'Mantras' are recited. In their colloquial language the priest prays for beautiful children or husbands for the women and the girls for whose sake the worship is held. The priest then keeps silent with folded hands for some time, and then calls on the women and the girls to bow down their heads and humbly pray for their desired objects. After that the night is passed in merry-making, drinking, dancing, and singing, in accompaniment of drum beating. This puja is usually an individual thing arranged by a barren woman, for which the 'Matabbar' is called to her house to act as the priest. It is on rare occasions a 'Baro-ari' (public) puja in which all the Bunas of the village take part.

'KALI'—This is also a Hindu puja and is celebrated at the dead of night of the new moon of the month of 'Kartic' (October and November). The same puja is performed by the Hos of Seraikella with the name of 'Shyama' puja.⁹⁸ This is always a 'Baro-ari' puja and is the grandest of all the pujas of the Bunas, in which all the Bunas, irrespective of sex, age or clan, take part. A hut is erected at a corner of the village in

an open yard, an image purchased from a Hindu potter is placed in the hut facing south or west.⁹⁴ In this puja they spend much and wine is freely drunk. Just in front of the hut a sacrificial stake is placed in the yard, in which a fowl is sacrificed, like the Hos of Seraikella, and with this offering to the goddess the 'Matabbar' begins the puja. As usual with them, no 'Mantras' are recited, simply flowers are scattered on the idol, while thundering drum beating and piercing howlings rend the air. The actual puja is finished in a short time, but their merry-making continues throughout the night. The awe-inspiring image of 'Kali' is catching to the fancy of the uncultured Bunas and they believe 'Kali' to have immense power over all the destructive influences of the world.

'MANASA'—This rural serpent worship is performed on the last day of the month of 'Sraban' (August). This is an individual puja performed only in the houses of the people of the Nag (serpent) gotra. Others may take part but are not allowed to touch the actual objects of the puja. In this puja no image is necessary, only an earthen pot with some 'bael' leaves on it is placed in the middle of the floor of the main hut and in front of it is kept an earthen vessel with some milk and a few plantains. The owner of the house (Male) himself acts as the priest and performs the puja at noon by scattering flowers on the earthen pot and offering food to the goddess. No merry-making forms part of this puja. The earthen vessel with the milk and the plantain is taken after dusk to the back of the house and is there placed under a bush. In the morning the vessel is found empty and they believe that the serpent goddess came in the night and partook of their offering of milk and plantain.

'BISKARAM'—The 'Biskaram' puja or the puja of Biswakarma, the Hindu god of engineering and craftsmanship, is performed by the Karmakars of the Bunas. So this is also an indie

⁹⁴ Purely a Hindu influence.

vidual puja, performed in every Karmakar family, the head of the family (Male), acting as the priest. This puja is celebrated on the last day of the month of 'Vadra' (September) and the day is observed as the day of absolute rest, they would not even touch a single iron instrument on that day. All their chief instruments are collected at one place in the middle of the cleansed floor of the main hut and in the morning the householder performs the worship by scattering flowers on the instruments and praying to the god for the success of their manual works. No merry-making or amusement is attached to the performance of this puja.

Thus reviewing this interesting group we find that the great 'Sing-Bhonga,' their original Supreme Being, has not lost in prestige. Of the Hindu deities who have been readily accepted are naturally the serpent deity 'Manasa' which comes in as a familiar worship pattern. The new clan of artisans (Karmakars) brought with them also the artisan god 'Biswakarma.' Fear of disease has made them yield to the worship of 'Kali' to which even Mahammadans in rural Bengal are known to tender offerings on the fulfilment of vows. But what makes them stand out from the Hindus is their fowl-sacrifice which is definitely Santal and is nowhere to be found in the Hindu society.

MEDICINE

As the Bunas live socially separate from the other communities of Bengal, it is natural for them to be self-sufficient. Bengal is low and its climate is moist and unhealthy and the largest portion of the country is formed by the delta of the combined rivers the Ganges and the Brahmaputra. The soil, the climate, the temperature and the food supply sufficient ground for the study of tropical diseases. In such a country, devoid of properly qualified physicians, and even when available from distant parts, it was not possible for the poor Bunas to obtain any medical help during illness. It is difficult to ascertain whether the Bunas brought their knowledge of medicine from their original home in the eastern Vindhya, or acquired it from their Hindu neighbours. The knowledge of the healing art has sometimes been found to be instinctive. Even among the lower animals, we find them trying drugs when feeling indisposed. A cat or a dog may sometimes be found to chew grass and then vomit out food, etc., and lie down for some time in a weak state. After an hour or two it feels quite all right. Certainly their taking to this sort of treatment cannot be regarded as the effect of empirical knowledge. However, how much of human knowledge of sciences is actually instinctive, it is very difficult to ascertain. On the other hand, many discoveries, particularly regarding medicines, owe their origin to pure accident. The discovery of cinchona bark and its effect is a matter of common knowledge to-day. And we might have made instinct and accidents solely responsible for the knowledge of the healing art of the Bunas if they had lived absolutely isolated from their more civilised neighbours. But regarding the commonest diseases of Bengal, malarial fever, cholera, kala-azar, which they had been living free from in their original homes, their knowledge must have been derived from their civilised neighbours. But of

other diseases, which are rare in Bengal and appear in epidemic, not endemic, forms from time to time in Bengal, probably their knowledge came along with them from Choto Nagpur; while their knowledge of the drugs they use in malarial fever must have been derived from their Hindu neighbours.

They have no physicians among them, and their old men are consulted when one falls ill. General experience in life they take as the standard of medical knowledge. The most striking point in their character is the absence of any sort of spirit worship during an epidemic or individual illness, which is so very natural to all the uncivilised peoples of the world. They may join the Hindu neighbours in worshipping 'Kali' or 'Sitala' during outbreaks of cholera or small-pox, but they have nothing like these in their own society. Their magico-religious treatment is found only in cases of hysteric patients whom they consider like all ignorant people, to be possessed of spirits, but this belief is not extended to other diseases and thus there is very little expression of their belief that the diseases are caused by the wrath of the gods.

In cases of extreme illness they seek the help of regular physicians, kavirajes, etc. So it may be presumed that in the mild attacks of the diseases, or in the preliminary stages of virulent diseases, they scarcely take resort to proper treatment, and only run to physicians when the course of illness passes all human help. This may be due to ignorance, poverty, and dependence on their crude knowledge of some drugs. On the whole we may take it as one of the causes of the rapid decline in their numbers.

The drugs they usually use in the common diseases are given below:—

1. Common malarial fever—

They call it by the Bengali name 'Jvara.'

They use the juice of the leaves of the Shefalika (*Nyctanthes arbortirtis*) flowers.

2. Continued or chronic fever—now-a-days known as 'Kala-Azar'—they usually call it 'Kalo Jvara,' probably from the idea that the patient suffering from it turns black.

They use a sort of decoction of the following—
 Neem (*Melia azadirachta*) leaves, Nishinda (*Vitexnegunda*), Bael (*Aegle marmelos*) leaves, Gulancha (*Tinospora cordifolia*) and Kalamegha (*Andrographis paniculata*).

For the sake of easily memorising, this is versified as follows :—

'Neem Nishinda Baeler pat,
 Anguruj ar Kalpanath.'

3. Convulsions and Fits of young children in fever—

They tie with a red thread the thorn of a silk cotton tree round the patient's neck.

4. Diarrhoea and Dyspepsia—

(a) The juice of mango (*Mangifera Indica*) bark with the juice of the leaves of the blackberries is drunk.

(b) The juice of the root of the crested Apang (*Achyranthes aspera*) shrubs is drunk.

5. Worms in children—

(a) Lime water is given to drink.

(b) Powdered liver of swine (*Sus cristatus*) is given to swallow.

6. Dysentery—

(a) The juice of Kutraj (*Holarrhena antidysenterica*) is drunk.

(b) The juice of the bark of Kacha tree (*Odina Wodier*), a kind of fencing plant, in which a red-hot iron is dipped, is drunk.

7. Boils and Abscesses—

- (a) Paste of the Neem and Tulsi (*Ocimum sanctum*) leaves is applied on the boil.
- (b) Paste of the leaves of crested Apang with breast milk is applied on the boil.
- (c) Pigeon dung mixed with the water of the hubble-bubble is used for the bursting of the boils.

8. Enlarged Spleen—

The skin over the area of the spleen is blistered with hot iron.

9. Infantile Liver and Spleen—

A little powdered black pepper and the stone of a fruit called Daphole (*Garcinia xanthocymus*), with mother's milk, is fed.

10. Hæmorrhage from the nose—

Juice of the Durba (*Cynodon dactylon*) grass is poured into the nostrils.

11. Cuts—

Juice of the tender leaves of the Kacha plants, or the juice of the stem of the small arum (*Alocasia Indica*) plants, is applied on the part to stop bleeding.

12. Sores and Itches—

Juice of the leaves of a thorny shrub called 'Shial Kanta' (*Argemon Mexicana*), or the powdered fruits of the plant, mixed with mustard oil, is applied to the sores.

13. Tooth-ache—

Powder of burnt Neem leaves and barks is applied to the affected teeth.

14. Purgative—

Thick sticky juice of the bark of the Deo tree is eaten.

15. Vomiting and Nausea—

(a) Water in which 'Muri' (fried rice) is soaked, is drunk.

(b) Water in which 'Arsula'—Telapoka, a kind of beetle (*Blata orientalis*)—is soaked and killed, is given as a drink.

(c) The kernel of the stone of the palm (*Borassus flabellifera*) fruits is chewed.

16. Inflammation of the eye—

(a) The juice of the leaves of 'Akanda'—Arka, a kind of small cotton shrubs (*Calotropis gigantea*)—is applied on the nail of the toe.

(b) Liquid substance discharged from the body of small snails is applied to the affected eye.

17. Coughs of children—

The juice of the onion-like roots of a kind of grass—Mutha—is given to drink.

18. Colic pain—

A paste of the buds of the jack fruit (*Artocarpus integrifolia*) is drunk with water.

19. Flatulence—

The stone of the jack fruit is chewed and swallowed with salt.

20. Cholera—

A paste of green turmeric (*Curcuma longa*) is given to drink with water.

21. Small-pox—

Suppurating rashes are burst with the thorns of the cane plant and then the patient is bathed with the water in which mango leaves are soaked. Then the nests of a kind of moth-like insects, called 'Kumerka,' are powdered and applied to the body mixed with water.

22. Gouts—

The lard of swine is applied to the affected parts.

23. Ring worms—

(a) A paste of the leaves of 'Somrail' (*Intsia resuta*) tree is applied to the part.

(b) The hard shell of the cocoanut (*Cocos mucifera*) is burnt and covered with a stone vessel. After some time a kind of oily substance is found sticking to the sides of the vessel. This oily substance is applied to the affected parts of the body.

24. Stings of wasps, bees, hornets, etc.—

A paste made of the leaves of 'Amra' (*Spondias mangifera*) and 'Kacha' is applied.

25. Stings of the scorpion—

A paste made of the roots of the crested 'Apang' is applied to the part.

26. Snake Bites—

(a) A paste of the roots of a plant called by the Bunas as the 'Mahasamudra' plant is to be applied to the point of the sting and a portion given to swallow with water.

(b) A paste of the bark of the roots of the 'Chanda' (*Kaempferia Galanga*) plant is given to swallow with water.

27. Delayed Labour Pain—

- (a) The stone of a green tamarind (*Tamarindus Indica*) is tied in the hair of the patient.
- (b) A paste of 'Ghatkole' (*Orixense*) leaves mixed with powdered red pepper is given to swallow with water. (Ghatkole is a kind of small plant growing in wet grounds, with leaves like those of water hyacinth.)

28. Veneral diseases, Gonorrhœa, etc. ('Dhatur byaram')—

- (a) The milk-like sticky juice of the roots shooting down from the branches of the fig tree (Banyan) is given to drink with unboiled goat milk.
- (b) A paste of the Banyan (*Ficus Bengalensis*) leaves is given to swallow with unboiled milk of the cow or goat.
- (c) A paste of the 'Babul' (*Acacia Arabica*) leaves is given to swallow with stale milk.
- (d) A kind of large figs (*Ficus hispida*)—Jajna Dumur—is boiled and eaten.
- (e) A paste of the roots of young silk cotton plants is given to swallow with water.
- (f) The roots of the thorny 'Nutia' herbs (*Amarantus* sp.) are chewed and the juice swallowed.
- (g) Sometimes in such diseases they give the patient to smoke 'Ganja' (*Canabis Indica*).

29. Syphilis ('Garmi')—

- (a) A paste of the soft root of the areca nut plant is given to swallow with water.
- (b) A paste of the leaves of the crested 'Akanda' is given to swallow with water.
- (c) Hot compress is applied to the part with a paste of soft green leaves of the 'Hijal' (*Barringtonia acutangula*) plant, rotting mango leaves and the leaves of the wild 'Pui' (*Basella rubra*) creeper.

FOLK-LORE

THE STORY OF CREATION

Sing-Bhonga or the great god was self-created. He first of all made the earth which was full of water only. He then made lands where he allowed animals to live in. Then he made a man, but he saw that the man could not live alone so he made a better creation—a woman. They then lived together as husband and wife and to them twelve boys and girls were born. From these twelve sprang up the whole human race including the Birhors, Mundas, Oraons, Bhumijas, Hos, Santals, etc. They then migrated to different parts of India and to Bengal they came as a mixed group and were named Bunas.

THE STORY OF THE SKY

In ancient times the sky was so low that it almost touched human heads. One day an old Buna woman was sweeping the yard with her broomstick (Jhanta) and the sky fell on her bent back. The old woman being very angry gave severe blows on the sky with her broomstick and as a result the sky receded upwards and it has since then remained high up in the air. Similar belief is prevalent among the Birhors of Choto Nagpur, but among the Birhors instead of sweeping the yard the woman was husking rice with a pestle and mortar and her pestle happened to strike against the sky with great force and the sky flew back upwards.⁹⁵

SEASONS OF THE YEAR

The Bunas believe that there are three seasons in a year—Summer, Rains, and Winter. By Summer they mean from Chaitra to Jaistha, Rains from Ashar to Aswin, Winter from

⁹⁵ S. C. Roy—The Birhors, p. 436.

Kartik to Falgun. These they understand by heat, rain and coolness. The Bunas go out in all weathers and their habits do not vary in any way according to the season. Similar ideas are found among the Birhors. The Birhors recognise three seasons—Situng din or the Summer, Rabang din or the Cold season and Jargida or the Rainy season.

SOLAR AND LUNAR ECLIPSES

The Bunas believe that there is one Rakshash who is very very powerful. But the thing is this that the Rakshash possesses a great hole in his throat. During eclipses that Rakshash gobbles the sun or the moon and that is why the earth is full of darkness. But as he has a great hole in his throat he cannot swallow it fully and the sun or the moon comes out through the hole and that is why on eclipse the earth is in darkness for a short time and then the sun or the moon re-appears.

THE STORY OF THUNDER AND STORM

The Bunas believe that the thunder and the storm are the signs of change of seasons. Really after winter, *i.e.*, in Chaitra (March and April), both storm and thunder occur, and again in Aswin (September and October) the same thing also occurs. They say that these are nothing but the washing of the old season and welcoming the new one.

Their idea is this that in the beginning there was no rain and the change of season was difficult. One day a man of their group went to the god of rain, whom also they call Sing-Bhonga, and prayed for rain to have a clearance of one season from the other. The great god granted his prayer and henceforth the rain occurs at the change of every season.

PROLONGING OF SUMMER DAYS

In ancient times the days were very short. The people were very busy and could not find sufficient time for work during the day. One day they met in a council and discussed how to make

the day longer. There was one person who could bear heat, and he said that if they could manage to bind the sun so that the sun might not go fast, the days would be longer. All paid attention to this remark and all agreed to this proposal. Then one fine morning some young men climbed a tree and tried to tie the sun with a rope, but there was a slight mistake in tying for which the sun for a few months in the year goes fast and for the rest of the year goes slow. So we find longer days in Summer and shorter days in Winter.

THE SPOTS IN THE MOON

The Sun and the Moon are described by the Bunas as brother and sister. The Moon was once brighter than the Sun. One day they quarrelled and as a result the Sun took some mud and flung it at his sister's (Moon) face. The Moon did not wash her face and the Moon became less powerful than the Sun, and the spots that are found in the Moon are due to the scattered patches of mud.

THE STORY OF GAJ-GIRI

Gaj-Giri is believed to be an ancient superman of the group who excelled in all mental and physical dexterity. He was exceptionally beautiful, brave and rich. He was loved and dreaded by all. He lived with special blessings of the mountain goddess 'Andharima.' His exploits of arms and special favour of the goddess brought him every day enormous prey and his hospitality was boundless. His ruin was, however, brought about by his incurring the wrath of the patron goddess in violating her injunction in killing her pet and protected boar by mistake. All his solicitations and atonements were of no avail. In despair he thrust his spear in his heart. But before he put his life to an end with his own hand to propitiate the goddess, he had packed all his fortune in a palm tree trunk and threw that into the water with a prayer that the goddess would award his wealth to the best of his race whenever he would be born and come to age.

It is believed by the people of the group that the trunk roams about in the water in search of its owner and the land slides and erosions on the banks of the rivers and large bils are caused by the trunk of Gaj-Giri striking against the earth in eternal search for its owner, and some day the destined man will come to set at rest the trunk relieving it of its trust.

DREAMS AND OMENS

If a vulture perches on the top of a Buna hut, some misfortune is expected. Similar belief is current among the Birhors of Choto Nagpur—'If a vulture alights on the roof of a Birhor hut, fever or death in the hut is apprehended.'⁹⁶

A Buna must not point his finger at a snake ; should he do so, he should immediately bite his finger ; otherwise, it is his belief, that a sore will appear on the finger.

A guest is expected if a comb falls from the head of a Buna woman. Similar beliefs are found among the rural Hindu femalefolk.

If a Buna dreams of a river full of current he will have plenty of liquor to drink on the following morning. This sort of belief is still current among the Birhors of Choto Nagpur. 'If a man dreams of a river in flood, he will soon have plenty of liquor to drink.'⁹⁷

If a Buna dreams that another man's house is on fire then either his own house will be on fire or he will die. But if he dreams of his own house on fire, some other person's house will be burnt and he will have plenty of food on the next morning.

If a Buna dreams of a snake, he will find some good fish on the next morning.

If a Buna dreams of a hunting excursion, he will not get anything on the next morning.

If a Buna dreams of copper, he will get money on the following morning.

If a Buna dreams that he is being eaten up by some animals, he will be attacked with fever.

⁹⁶ S. C. Roy—The Birhors, p. 385.

⁹⁷ *Ibid.*, p. 391.

If a Buna dreams of marriage, his wife will shortly die.

If a Bunaa dreams of dance, music, etc., he will have to suffer sorrows and lamentations. Among the Birhors of Choto Nagpur similar belief is prevalent—‘If a man dreams of dance and music he will have to witness or join in lamentations over some deceased person.’⁹⁸

⁹⁸ S. C. Roy—The Birhors, p. 393.

MUSIC AND DANCE

The Bunas have no great reputation for music and dance. They use some musical instruments—Madol, and Bamboo flute (Banser Bansi), these two probably they brought from Choto Nagpur; Gubijantra, Khole, Khartal and Dholoke, probably borrowed from the Hindus. But no very great artistic music has been found to be played by them on these instruments except in the case of Madol beating. They have got only a very few songs of their own and these even manifest their indebtedness to the Hindus. In their songs we find some reference to Ram and Sita, held by them in high reverence.⁹⁹

Their dance is found with some of the Pujas, particularly the Pujas of the Andharima and the Kali. These dances are mostly frantic jumps with uplifted hands in accompaniment of loud drum beating.

In their own merry-making and amusements no other form of dancing manifesting cultural arts is to be found, but the Bunas have been found to take part in the 'Kular-Mangan' ceremony of their Hindu neighbours, in which they have been found to perform the artistic 'Baran' dances, showing that they are adepts in these things. In these dances with their bowed bodies and outstretched hands they peculiarly bend their fingers artistically signifying a prayer, with low vibrating movements of the body and slow recession of their feet.

⁹⁹ See Appendix IV.

PLAYS AND TOYS

The poor Bunas, unable to purchase dolls for their children, themselves prepare earthen dolls for them. In this they show sufficient artistic skill in making small human figures of clay with combed hair or coronets. These dolls are dried in the sun and then burnt and thus considerably hard playing materials are supplied to their children without any cost. Dolls are also made in the same way of the shapes of horses, cows, dogs, etc. Their children are also given slender bamboo bows to play with in which they use jute stalks as arrows. The children have also been found to play with tops and marbles, the result of their living in the midst of the cultured society.

Healthy sports for the grown-up children are 'Hadoo doo' and accompanying fishing and hunting parties.

DETERMINATION OF THE RELATIVE FEELING TONE OF COLOUR IMPRESSIONS

There is no absolute measure of the amount of pleasantness or unpleasantness that corresponds to a given stimulus, but when two stimuli are presented we can say which of them is more pleasant and which of them is less so. We are to determine the relative affective value of colour impressions.

The subject was asked to close his eyes and, on a signal given, to direct his vision to two colours and say promptly which of the two colours was pleasant.

Six coloured papers were chosen, *viz.*—

1. Yellow
2. Green
3. Red
4. Grey
5. Blue
6. Purple.

Two coloured papers were taken at a time and had been presented and the subject was asked which one was preferred

more. Then according to the formula $n \underset{c_r}{c}_r = \frac{n \mid n-1}{r \mid n-2}$ we are to see how many points are formed with these six colours,

where $n=6$, $r=2$, then $6 \underset{c_2}{c}_2 = \frac{6 \mid 6-1}{2 \mid 6-2} = \frac{6(6-1). \mid 6-2}{2 \mid 6-2}$

$$= \frac{30}{2} = 15.$$

A table of a particular individual preferences is given below :—

Preference →	Colours →	I	II	III	IV	V	VI
	I		10			5	
	II			13	6		
	III	15				7	8
	IV	2		4			3
	V		12		11		9
	VI	1	14				
Total number of		3	3	2	2	2	3
Preferences of each colour.							

Again a table of 50 subjects' predominant feeling-tone is shown below :—

Colours.	No. of preferences.	Percentage.
Yellow	6	12%
Green	2	4%
Red	38	76%
Grey	1	2%
Blue	2	4%
Purple	1	2%

The result of the individual preferences is tabulated on a graph paper (Fig. IV), and the percentage of the predominant the colour is tabulated (Fig. IV).

Thus finally it is seen that the Bunas have greater preferences for the red colour. Herein they agree more or less with infantile preference for red.

We are to observe that both the physical and mental conditions of the subject should be normal. Prompt answer is necessary, otherwise association factor will be predominant.

DETERMINATION OF THE SPAN OF MEMORY

A few series of digits were made. The series No. 1 consisted of 2 digits and it was gradually increased by one in the successive series. The subject was told that when he would hear a series he should not repeat it mentally nor make any movement of the tongue. He would simply hear it and reproduce from memory by oral version.

After giving the signal for attention a series was read aloud with the same accent and keeping the same interval between the successive digits of the series. The subject, on hearing the series, reproduced it orally. After a pause the second series was read aloud and the result was noted and so on till the end of the experiment. Sometimes the reproduction of the subject was made by a new series containing the same number but of different digits. It is generally found that any subject can reproduce 6 or 7 digits correctly as stated by Titchener and beyond that he commits mistakes. This is known as Auditory type. This result was very much the same in a class of undergraduate Bengali students. But in the case of the Bunas the memory span is limited to four digits. This is quite natural as the subjects were illiterate and had no knowledge of the three R's even in their mother tongue, not to speak of English in which the digits were made.

Another set of digits was made and the subject was made to hear that and also allowed to make movement of his tongue—this type is known as Kinæsthetic auditory. A similar arrangement was made with alphabets (both Auditory and Kinæsthetic auditory), and it is generally found that the memory span with alphabets is limited within the range of 7 and 9. But in the case of the Bunas it is a bit lower.

DIGITS PRESENTED TO THE SUBJECT

Auditory		Auditory Kinæsthetic	
1.	21	1.	52
2.	245	2.	436
3.	1367	3.	2359
4.	29658	4.	46781
5.	475689	5.	325902
6.	3214659	6.	4051237
7.	41032768	7.	32156980
8.	502876413	8.	561974082

SUBJECT'S REPRODUCTION

Auditory		Auditory Kinæsthetic	
1.	21	1.	52
2.	245	2.	436
3.	1367	3.	2359
4.	29655	4.	46716
5.	475428	5.	325923
6.	3241211	6.	4051423
7.	41042846	7.	32169508
8.	502764163	8.	561497042

ALPHABETS PRESENTED TO THE SUBJECT

Auditory		Auditory Kinæsthetic	
1.	B T	1.	D G
2.	K N R	2.	I K M
3.	P Q S M	3.	C D P R
4.	A L N G K	4.	Z N C T Q
5.	P C T L R S	5.	P C M O B D
6.	K N G A C B O	6.	Q O Z Y L E F
7.	P C D K C Q Z T	7.	P D C F J K L T
8.	Y L T Z P M S U V	8.	R O M S T Q Z U W

SUBJECT'S REPRODUCTION

Auditory		Auditory Kinæsthetic	
1.	BT	1.	D G
2.	KNR	2.	I K M
3.	P Q S M	3.	C D P R
4.	A L N G R	4.	Z N C T Q
5.	P C T L R P	5.	P C M O B A
6.	K N G A O C B	6.	Q O Z Y A C K
7.	P C D K Z M A B	7.	P D C F J K A B
8.	Y L T P Q A B O R	8.	R O M S A T Q X M

TABLE I
With Digits (Auditory)

Series	C. R.	W. R.	Total
1	2	...	2
2	3	...	3
3	4	...	4
4	4	1	5
5	3	3	6
6	2	5	7
7	3	5	8
8	3	6	9

TABLE II
With Digits (Auditory Kinæsthetic)

1	2	...	2
2	3	...	3
3	4	...	4
4	3	2	5
5	4	2	6
6	4	3	7
7	3	5	8
8	3	6	9

C. R. = Correct reproduction.

W. R. = Wrong reproduction.

TABLE III

With Alphabets (Auditory)

Series	C. R.	W. R.	Total
1	2	...	2
2	3	...	3
3	4	...	4
4	4	1	5
5	5	1	6
6	4	3	7
7	4	4	8
8	3	6	9

TABLE IV

With Alphabets (Auditory Kinæsthetic)

1	2	—	2
2	3	—	3
3	4	—	4
4	5	—	5
5	5	1	6
6	4	3	7
7	6	2	8
8	4	5	9

TABLE V

Digit (Auditory)

No.	H. R.	Percentage.
38	4	76%
8	5	16%
2	3	4%
2	6	4%

H. R. — Highest number of reproduction.

TABLE VI

Digit (Auditory Kinæsthetic)

No.	H. R.	Percentage.
43	4	86%
5	5	10%
2	3	4%

TABLE VII

Alphabets (Auditory)

39	5	78%
7	4	14%
4	6	8%

TABLE VIII

Alphabets (Auditory Kinæsthetic)

41	5	82%
5	6	10%
3	4	6%
1	7	2%

Thus finally it is seen that the memory span of the Bunas is lower than that of the common people.

Experiments were done on 50 subjects (adult males).

CHAPTER IV

APPENDIX I

BUNA TERMS OF RELATIONSHIP

Relations through the Father.		Terms.
Self	...	Ami
Step-brother		
(a) Born of father's elder wife	...	Vai
(b) ,, ,, younger wife	...	Vai
Father's elder brother's son	...	Vai
Father's elder brother's son's wife	...	Bowu
Father's elder brother's daughter	...	Boan
Father's elder brother's daughter's husband	...	Bonai
Father's younger brother's son	...	Vai
Father's younger brother's daughter	...	Boan
Father's elder sister's son	...	Vai
Father's elder sister's daughter	...	Boan
Father's younger sister's son	...	Vai
Father's younger sister's daughter	...	Boan
Father	...	Baba
Step-father	...	(Sat) Baba
Step-mother	...	(Sat) Ma
Father's elder brother	...	Jata
Father's younger brother	...	Kaka
Father's elder brother's wife	...	Jetu
Father's younger brother's wife	...	Kaki
Father's elder sister	...	Pisi
Father's younger sister	...	Pisi
Father's elder sister's husband	...	Pise
Father's younger sister's husband	...	Pise
Father's father	...	Dadu
Father's mother	...	Daduma

Relations through the Father (<i>contd.</i>).	Terms.
Father's father's brother ...	Dadu
Father's father's brother's wife ...	Daduma
Father's father's sister ...	Daduma
Father's father's sister's husband ...	Dadu
Father's father's brother's son ...	Kaka
„ „ „ daughter ...	Pisi
Father's father's sister's son ...	Kaka
„ „ „ daughter ...	Pisi
Father's brother's son's son ...	Vaiput
Father's brother's son's son's wife ...	Vaiput Bowu
Father's brother's daughter's son ...	Boanput
Father's brother's daughter's son's wife ...	Boanput Bowu

Relations through the Mother.	Terms.
Mother ...	Ma
Mother's elder sister ...	Masi
Mother's elder sister's husband ...	Meso
Mother's younger sister ...	Masi
Mother's younger sister's husband ...	Meso
Mother's sister's son ...	Vai
„ „ daughter ...	Boan
Mother's brother ...	Mamu
Mother's brother's wife ...	Mami
Mother's brother's son ...	Vai
„ „ daughter ...	Boan
Mother's father ...	Dadu
Mother's mother ...	Daduma

Relations through the Brother and Sister.	Terms.
Elder brother ...	Dada
Elder brother's wife ...	Bowu

Relations through the Brother and Sister (*contd.*).

Terms.

Elder brother's—		
	Son	... Vaiput
	Daughter	... Vaijhi
Younger brother		... Vai
Younger brother's wife		... Bowu
Younger brother's—		
	Son	... Vaiput
	Daughter	... Vaijhi
Sister		... Boan
Sister's husband		... Boanai
Sister's—		
	Son	... Boanput
	Daughter	... Boanjhi

Relations through the Wife.

Terms.

Wife		... Bowu
Wife's brother		... Shala
Wife's brother's wife		... Shala Bowu
Wife's brother's—		
	Son	... Shalaput
	Daughter	... Shalajhi
Wife's elder sister		... Shali
Wife's elder sister's husband		... Vaira
Wife's elder sister's—		
	Son	... Shaliput
	Daughter	... Shalijhi
Wife's younger sister		... Shali
Wife's younger sister's husband		... Vaira
Wife's younger sister's—		
	Son	... Shaliput
	Daughter	... Shalijhi
Wife's father		... Shawur
Wife's mother		... Shawuri

Relations through the Husband.	Terms.
Husband	... Karta
Husband's other wives	... Boan
Step son	... Satput
Step Daughter	... Satjhi
Husband's elder brother	... Vasur
Husband's elder brother's wife	... Boan
Husband's elder brother's—	
Son	... Vaiput
Daughter	... Vaijhi
Husbands younger brother	... Debor
Husband's younger brother's wife	... Boan
Husband's younger brother's—	
Son	... Vaiput
Daughter	... Vaijhi
Husband's sister	... Nanad
Husband's sister's husband	... Bonai
Husband's sister's—	
Son	... Nanadput
Daughter	... Nanadjhi
Husband's father	... Shawur
Husband's mother	... Shawuri

Relations through the Son.	Terms.
Son	... Putro
Son's wife	... Put Bowu
Son's wife's father	... Beai
Son's wife's mother	... Beain
Son's son	... Putraput
Son's son's wife	... Putraput Bowu
Son's daughter	... Putrajhi
Son's daughter's husband	... Putjamui

Relations through the Daughter.

Terms.

Daughter	... Meiya
Daughter's husband	... Jamui
Daughter's husband's father	... Beai
Daughter's husband's mother	... Beain
Daughter's son	... Meiyaput
Daughter's son's wife	... Meiyaput Bowu
Daughter's daughter	... Meiyajhi
Daughter's daughter's husband	... Meiyajamui

APPENDIX II

Change from Buna to other Castes

B	}	Sardar	<u>...</u>	Sarkar
S						
B1						
S1						
P	}	Sardar	Sikdar
J						
B						
J1						
G		Sardar		Mahammadan
J	}	Karmakar		Hindu Karmakar
S						
S1						
T						
B						
J1						
R						
G						
M						
K						
S2						
B1						
J2						
B	}	Karmakar	Kumhar
S						

Change from Buna to other Castes

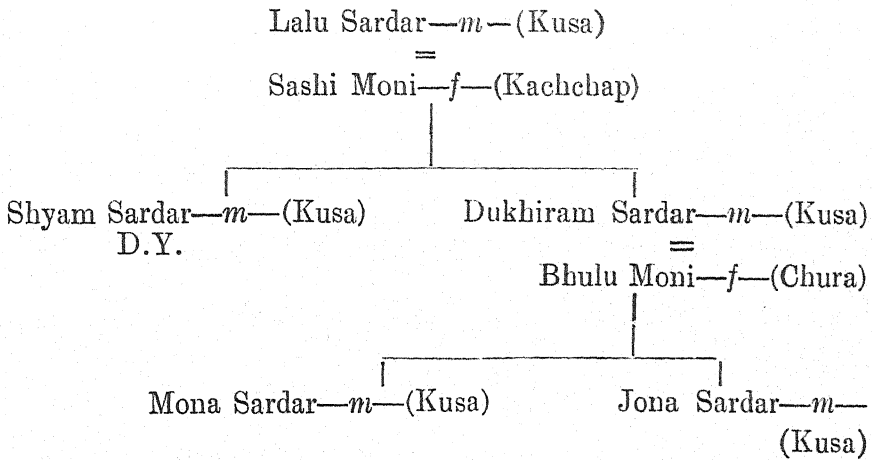
R	}				
S					
J					
N					
G		Mali	...	...	... Mullik
R					
D					
S1					
B		Mali	...	...	... Manjhi
G		Mali	...	...	... Malo

APPENDIX III

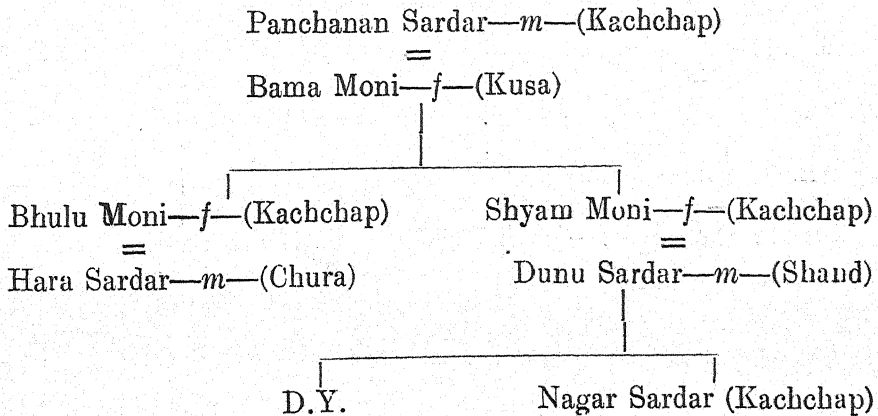
GENEALOGICAL TABLES

(Sardars)

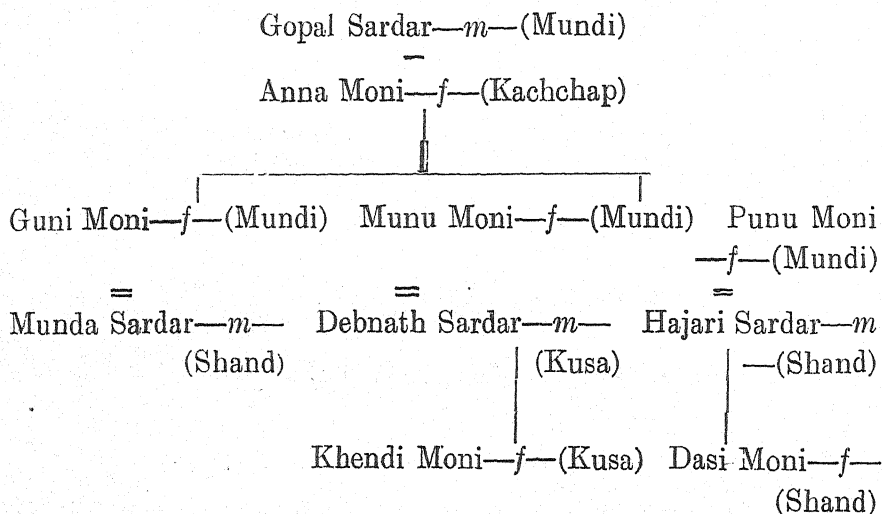
I



II

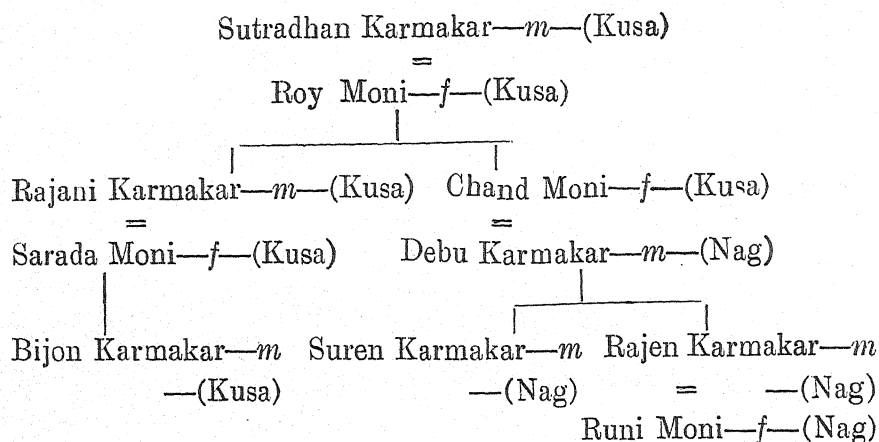


III



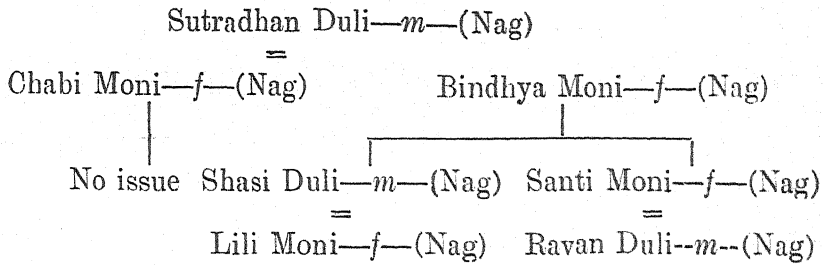
Dhulo Moni—*f*—(Nag) Sona Moni—*f*—(Kusa)

III

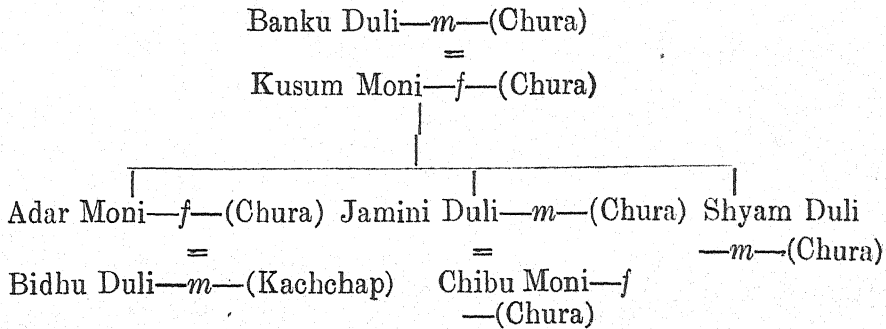


(Dulis)

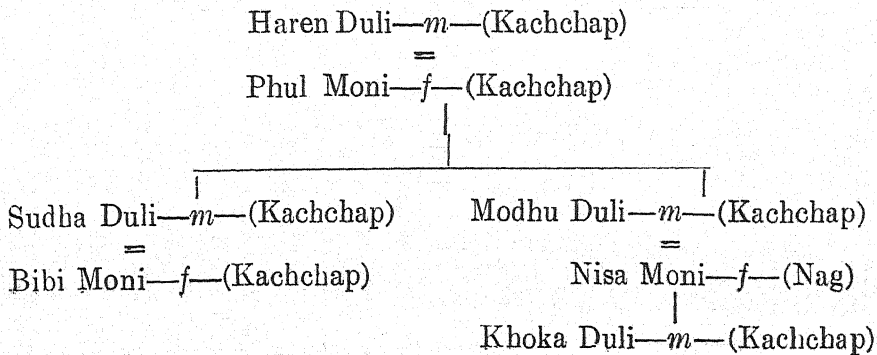
I



II



III



IV

Roy Charan Duli—*m*—(Champa)

=
Swarna Moni—*f*—(Nag)

Dwarika Duli—*m*—(Champa) Buku Duli—*m*—(Champa)

=
Sona Moni—*f*—(Kachchap) Pati Moni—*f*—(Champa)

Chiku Moni—*f*—(Champa) Kumar Duli—*m*—(Champa) No issue

=
Amulya Duli—*m*—(Nag)

Shambhu Duli—*m*—(Nag)

(Malis)

I

Shambhu Mali—*m*—(Nag)

=
Dasi Moni—*f*—(Nag)

Basanta Mali—*m*—(Nag) Hemanta Mali—*m*—(Nag) Bindya Moni—*f*—(Nag)

=
Sukh Moni—*f*—(Kachchap) Dulu Moni—*f*—(Nag)

Khuko Moni—*f*—(Nag) Samar Mali—*m*—(Nag)

II

Kanta Mali—*m*—(Kachchap)

=
Bama Moni—*f*—(Kachchap)

Sona Moni—*f*—(Kachchap) Fakir Mali—*m*—(Kachchap)

=
Gopal Mali—*m*—(Nag) Bidhu Moni—*f*—(Kachchap)

III

Bahadur Mali—*m*—(Kusa)

=

Nayan Moni—*f*—(Kusa)

|

Goda Mali—*m*—(Kusa)

=

Gahar Moni—*f*—(Kusa)Basanta Mali—*m*—(Kusa)

=

Noni Moni—*f*—(Nag)*m* = male,*f* = female.

APPENDIX IV

(Songs)

- I. Āmār Sītere Sājāye deo ati Sakāle
Sither Siṅdūr Raiche Bāner Dokāne
Āmār Sīter Māthār Mukuṭ Raiche Mālir Dokāne
Āmār Sītere Sājāye deo ati Sakāle.

English version

O, early adorn my Sita !
The vermilion of her forehead is at the grocer's,
My Sita's coronet is at the gardener's ;
O, early adorn my Sita !

- II. Lācre Lācre Sakhi
Gharete Phirisne Sakhi
Yadi Tui Pāris Lācre
Tukey Diba Bar Bāchte.

Bar lie Tui Yas Ghare
Bhalo Kare Tukhan Khāyas Tāre
Ekbār Tui Lācre Sakhi
Kathā Tui Rākhisre Sakhi.

English version

Dance on, dance on, friend !
Return not home, my friend !
If thou canst dance on well
Thou getst the groom of thy choice.

Return home with thy groom
And then feed him well.
Dance on once, my friend !
Pray, keep my word, friend !

III. Āya Āya Bhāi
Sakali Kudālī Yai
Kudālī Kore Ānbi
Diner Khābār Ghare.

English version

Come on, come on, brothers,
Let us go with spades for work,
Working with the spades,
Now bring food for the day.

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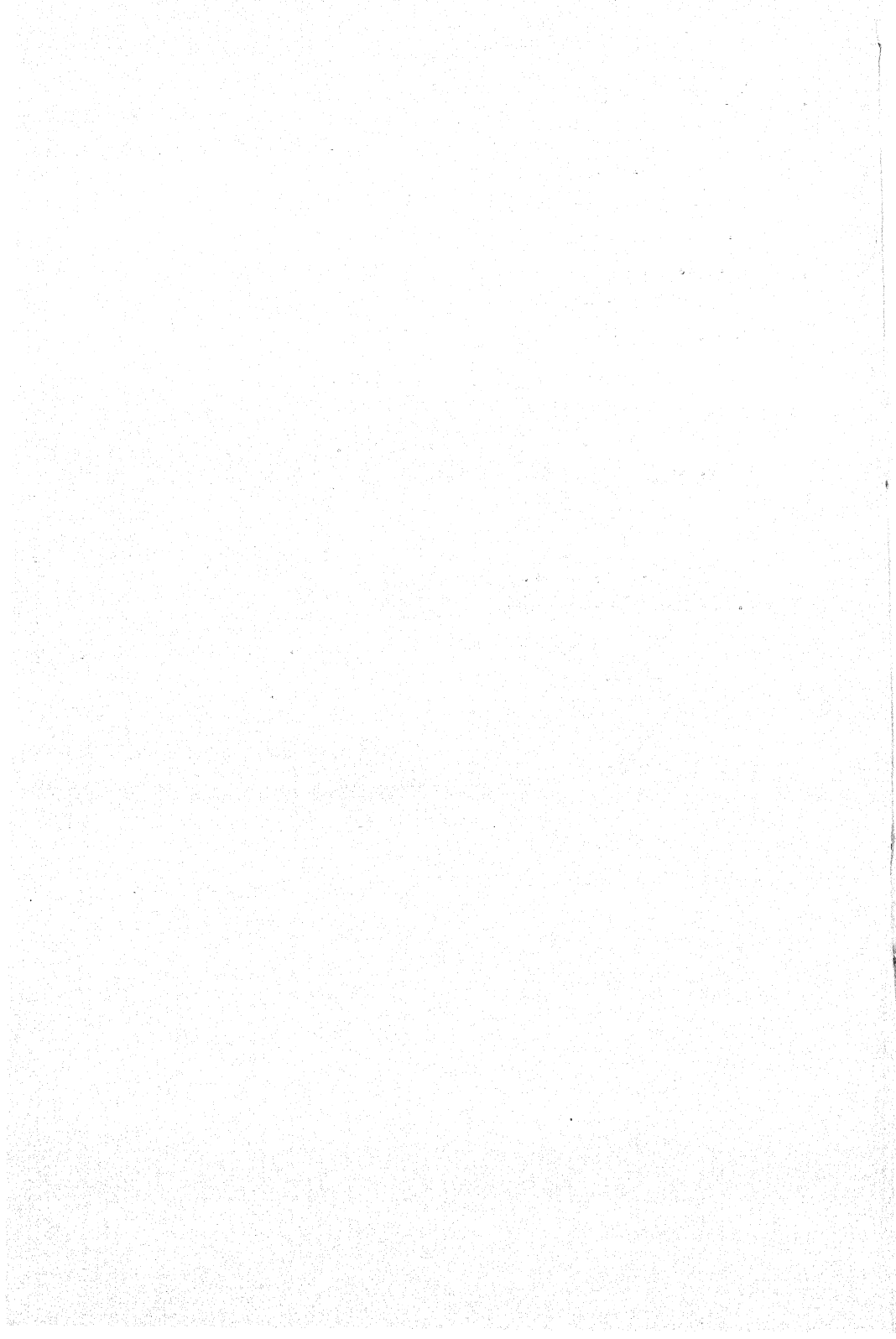
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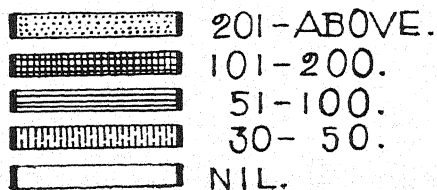
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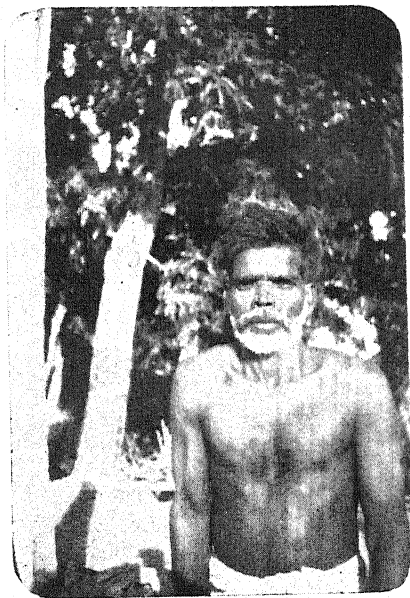




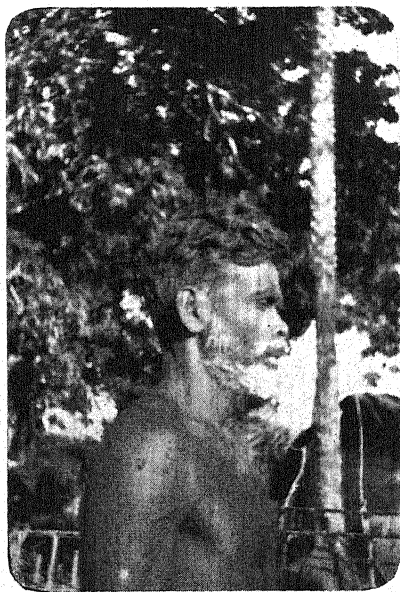
A Buna hut



A Buna woman collecting cow-dung



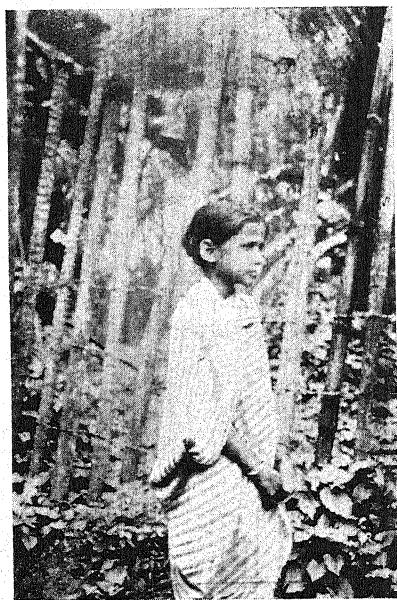
Front view of a Buna male



Side view of a Buna male



A newly married Buna girl (Frontal view)



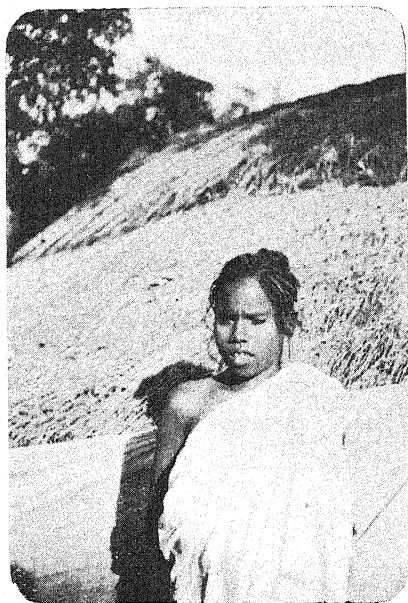
A newly married Buna girl (Profile view)



A group of Buna women



Two Bunas after their day's labour



Front view of a Buna female



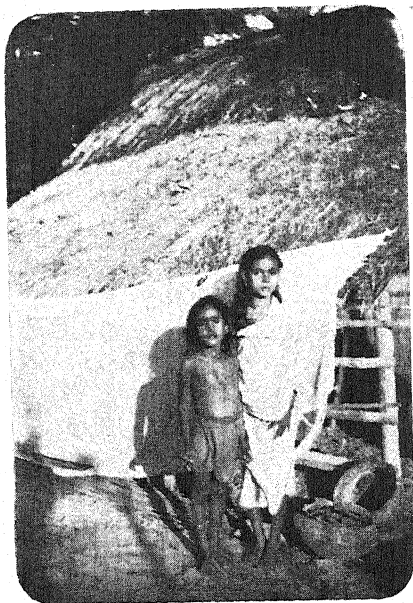
Side view of a Buna female



Front view of an adult Buna



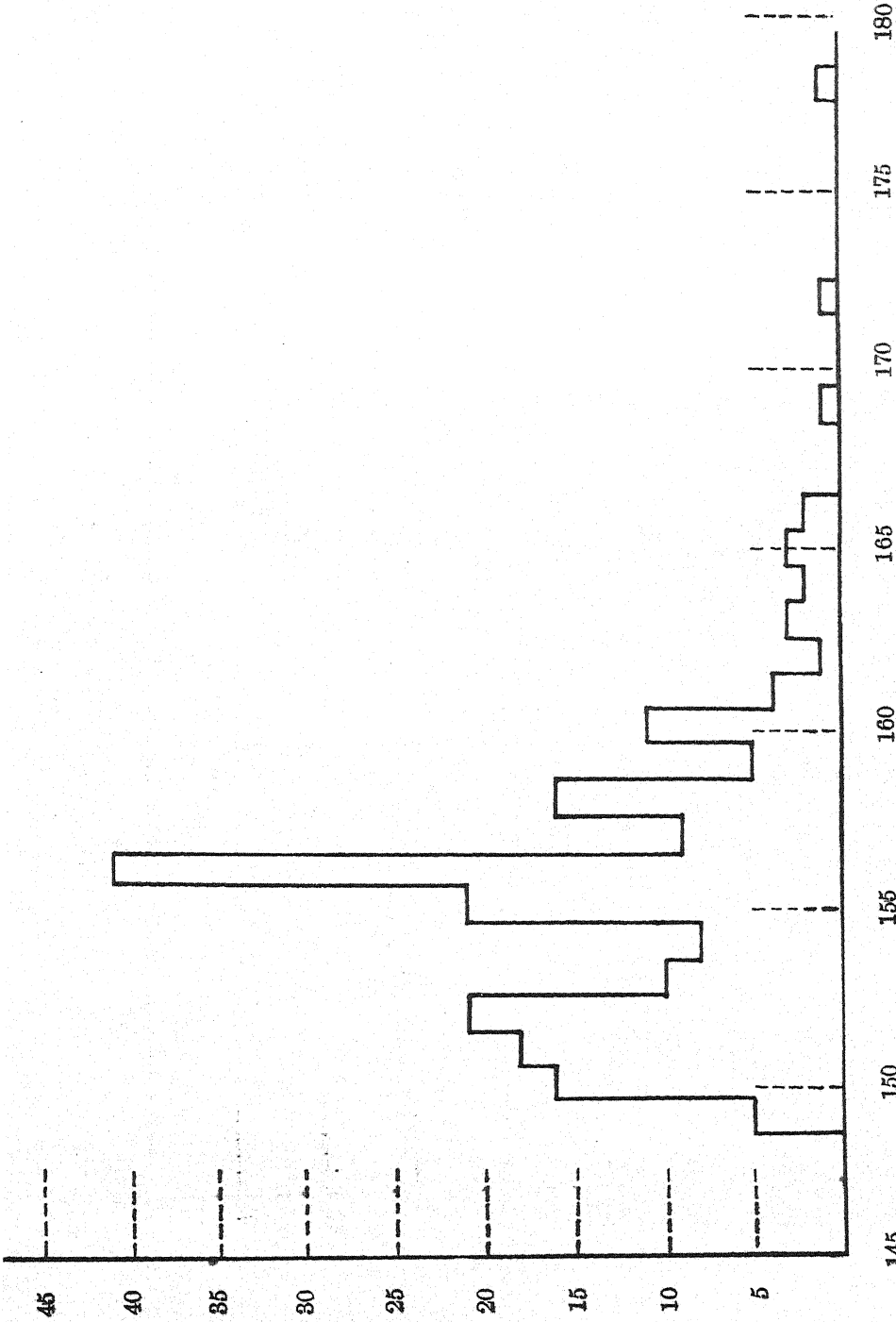
Profile view of an adult Buna



Two Buna girls



A Buna boy sitting with Bhela, Doar and Toobo



Frequency Curve of Stature (Histogram)

Fig. I

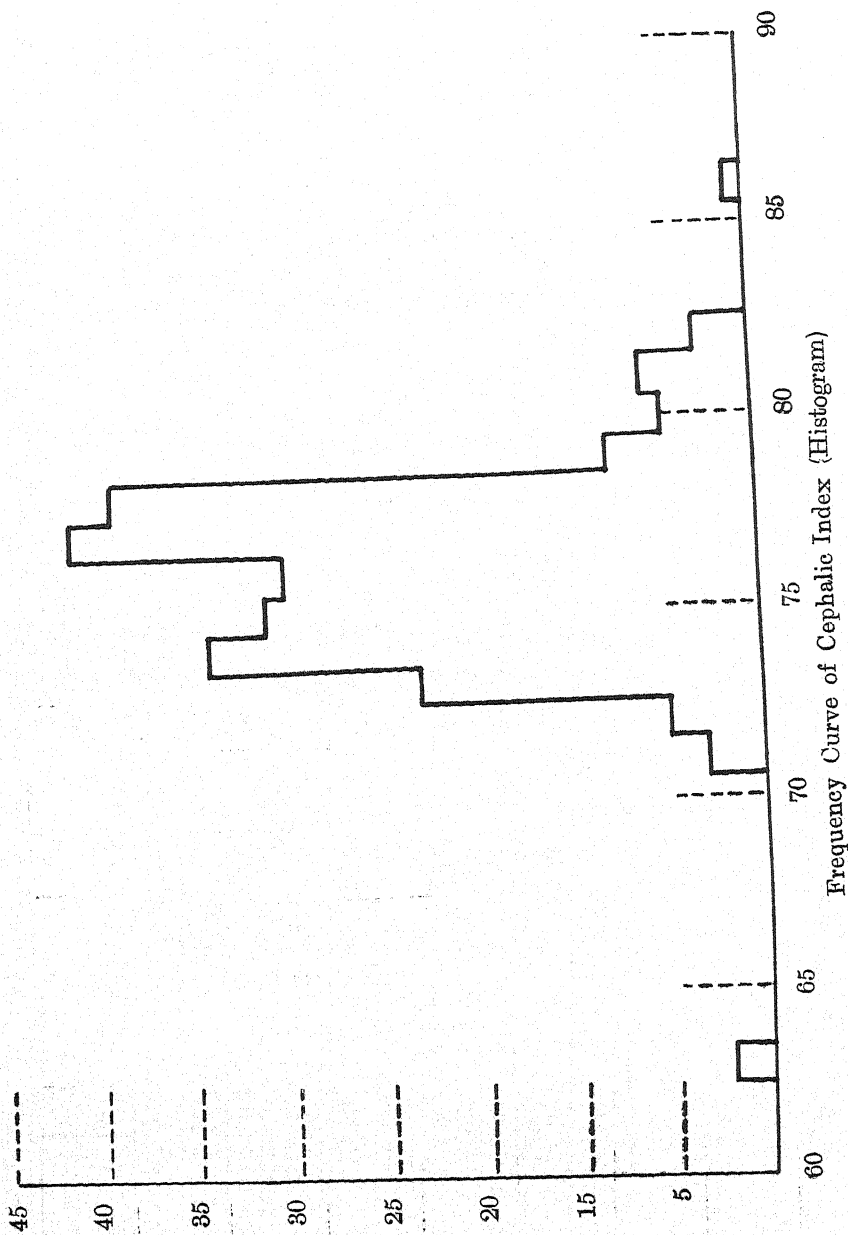


FIG. II

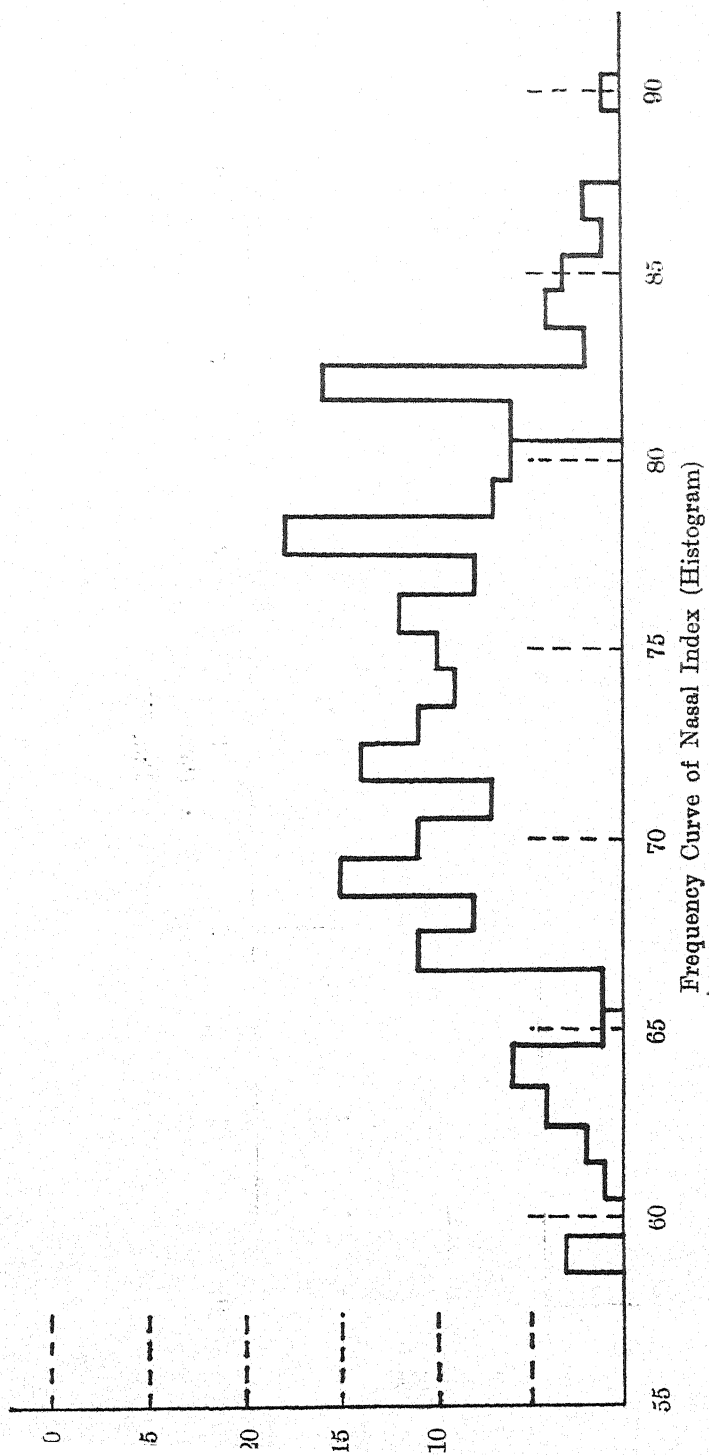
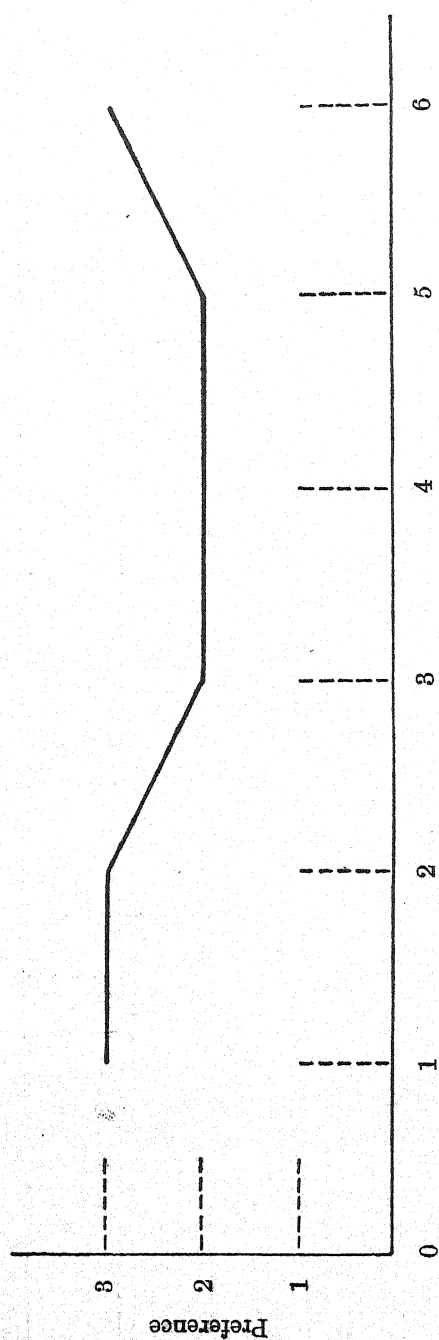


FIG. III



Colours
Fig. IV

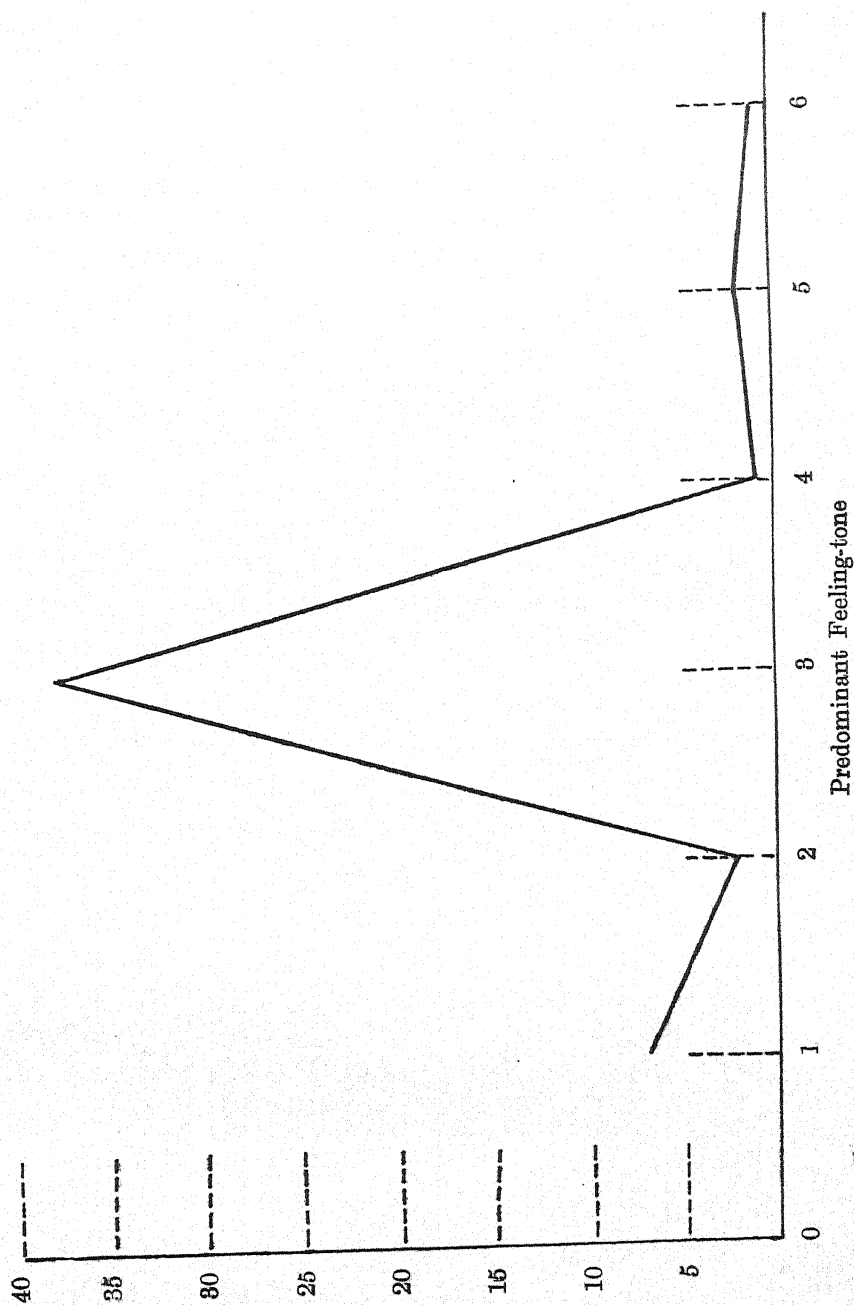
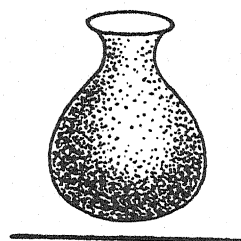
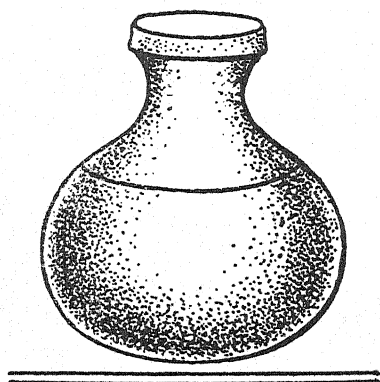


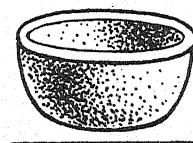
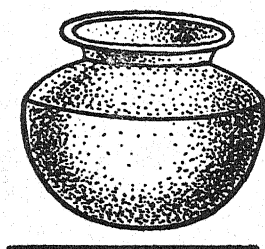
FIG. V

Household Articles

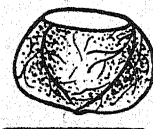
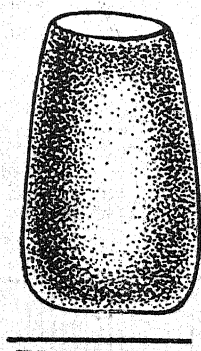
1 2



3 4 5



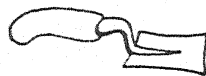
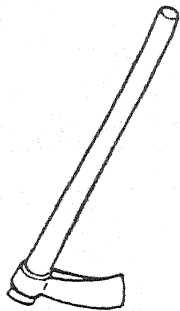
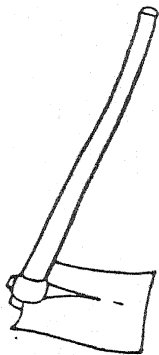
6 7 8



1 Kalas 2 Ghati 3 Handi 4 Sara 5 Malsa 6 Lauer Bash 7 Narikel Mala
8 Banser Chongi

Buna Implements I

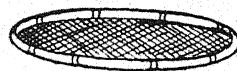
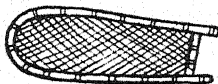
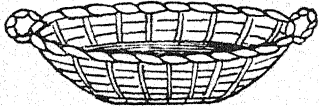
1 2 3



4 5 6

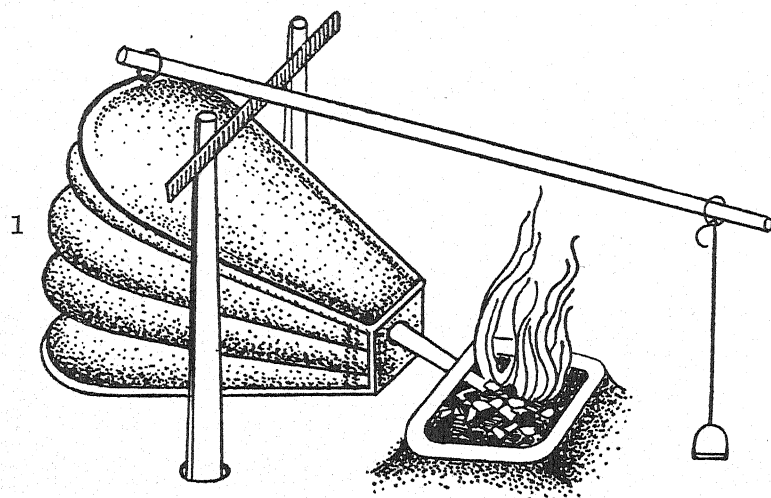


7 8 9

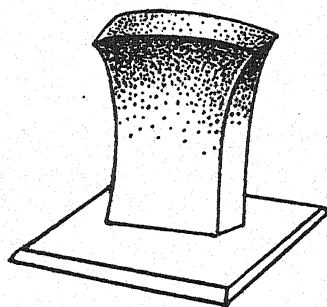


1 Kudali 2 Khurali 3 Khurpi 4 Khonta 5 Kachi 6 Dao 7 Jhuri 8 Kulo 9 Dala

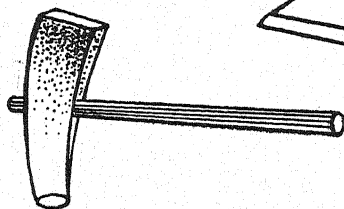
Buna Implements II



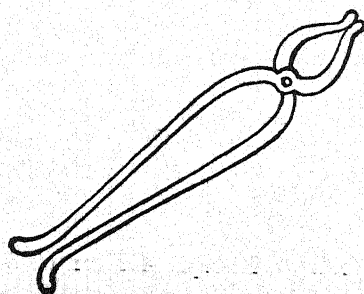
2



3

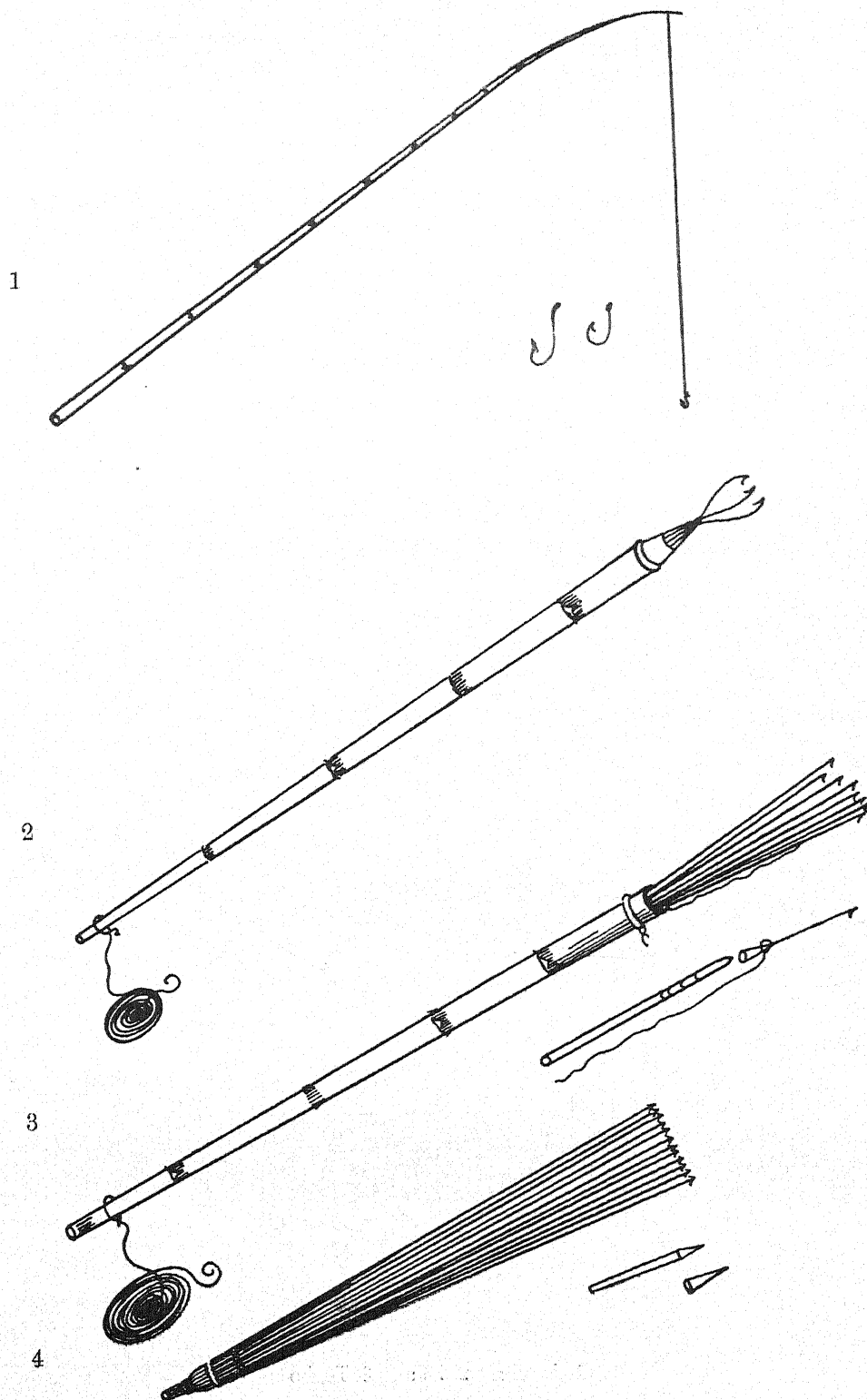


4



1 Hapar 2 Nehai 3 Haturi 4 Sarasi

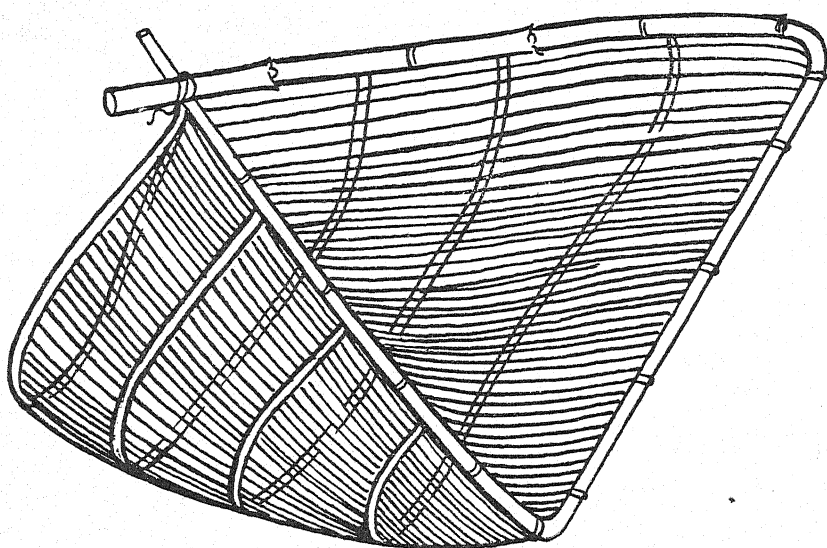
Buna Fishing Implements



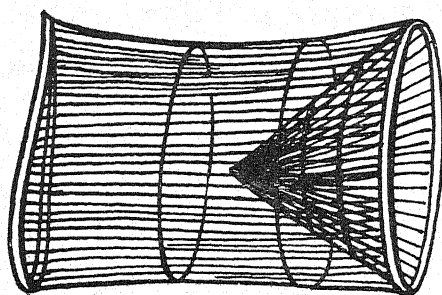
1 Fishing Rod, Line and Hooks 2 Jooti 3 Arho, Arho point 4 Koch and Koch point

Fishing Traps

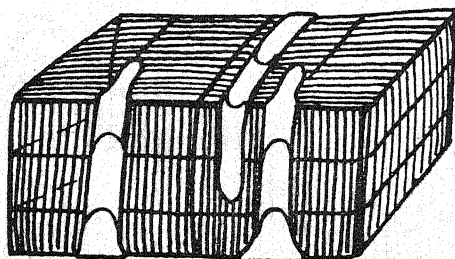
1



2

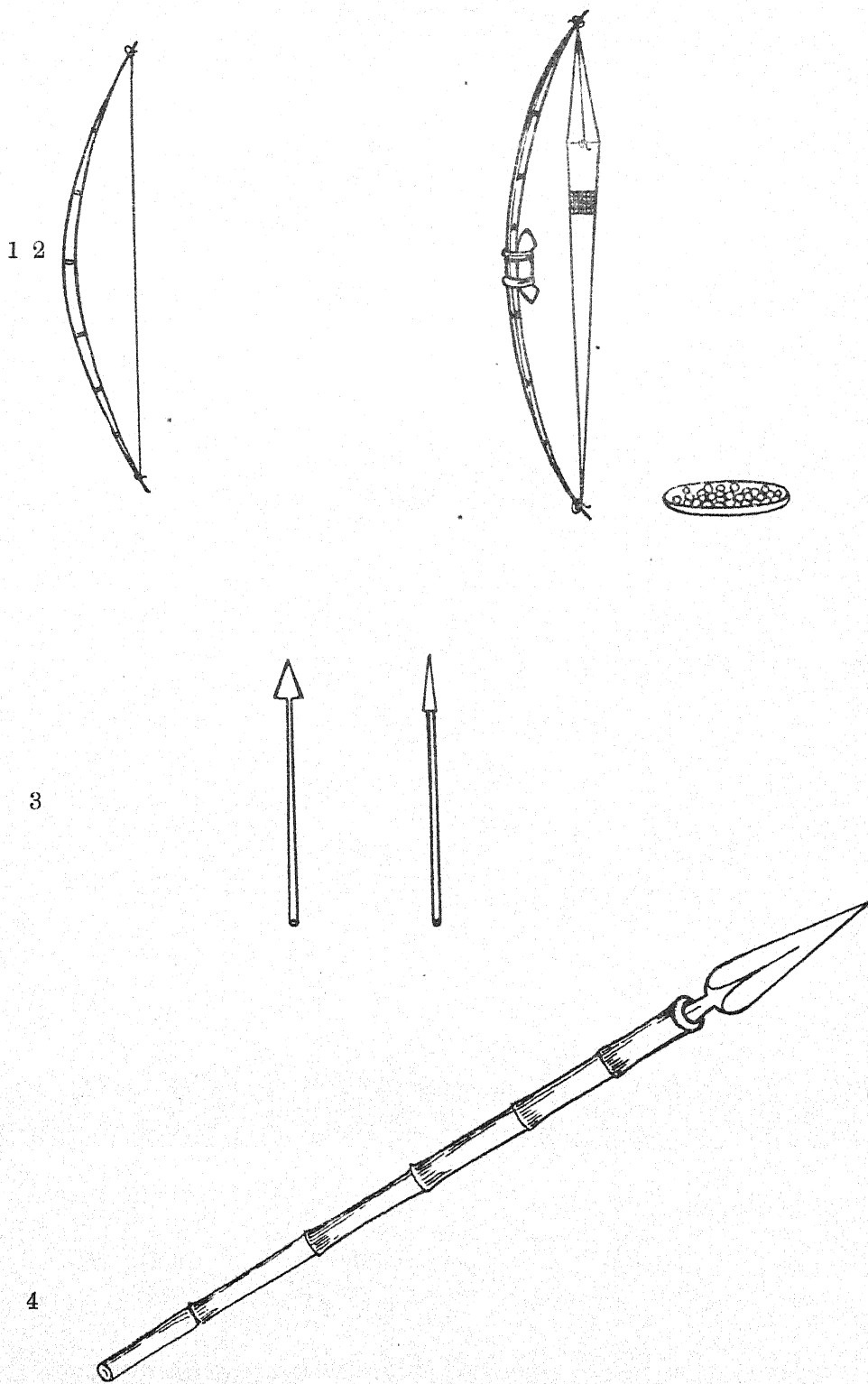


3



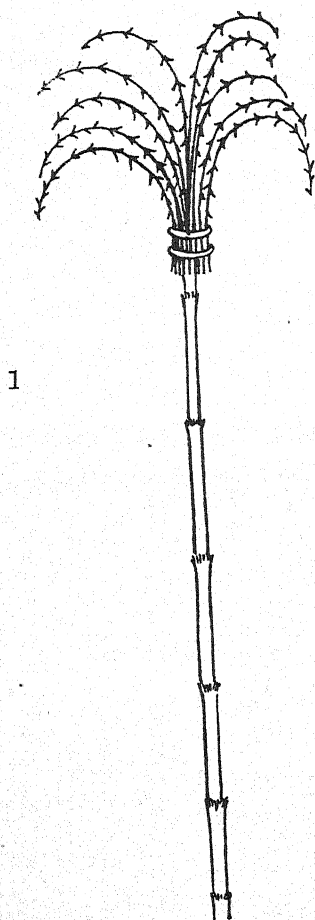
1|_Hocha 2 Doar 3 Toobo

Hunting Appliances

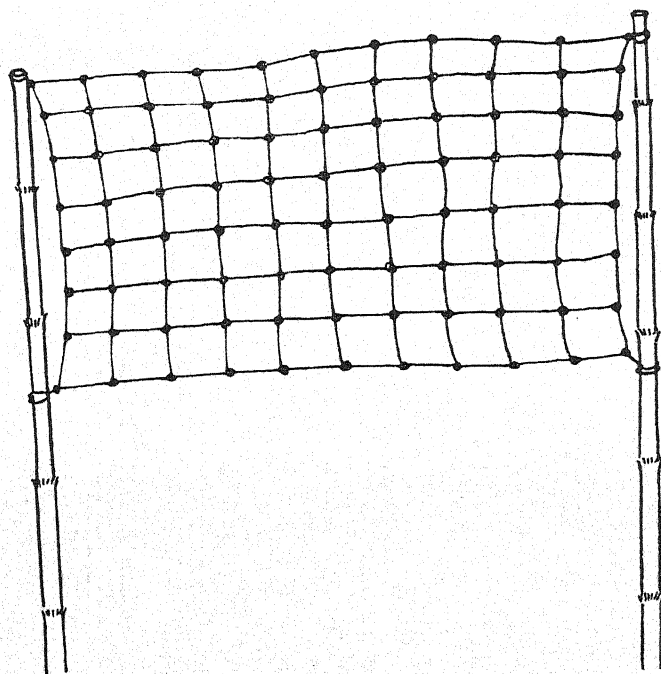


1 Bow 2 Gurali with Bullets 3 Arrows 4 Bhela

Bird-catching Appliances



1

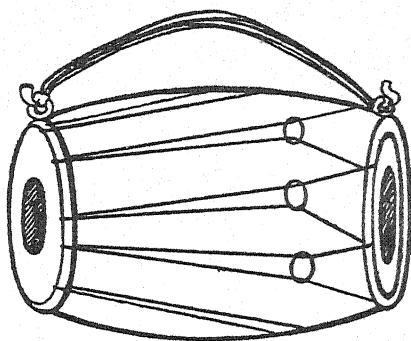


2

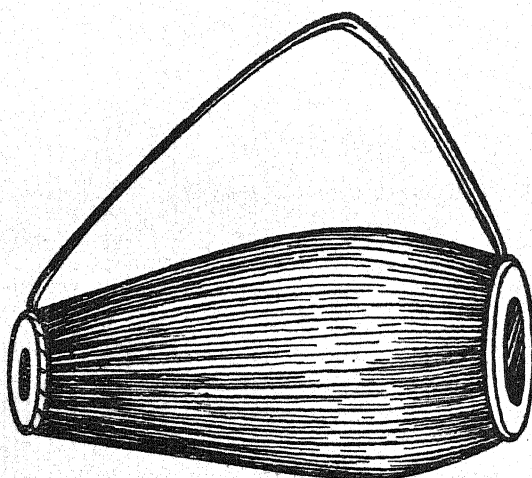
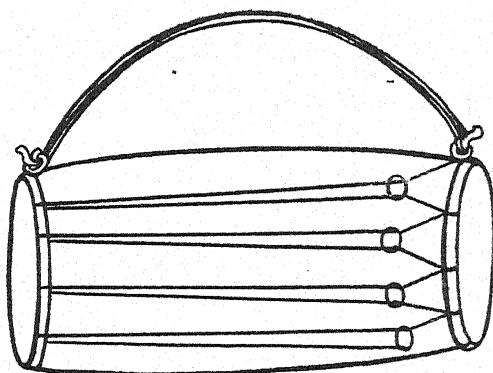
1 Chahir 2 Badur Fans

Musical Instruments I

1



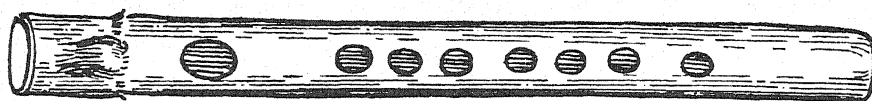
2



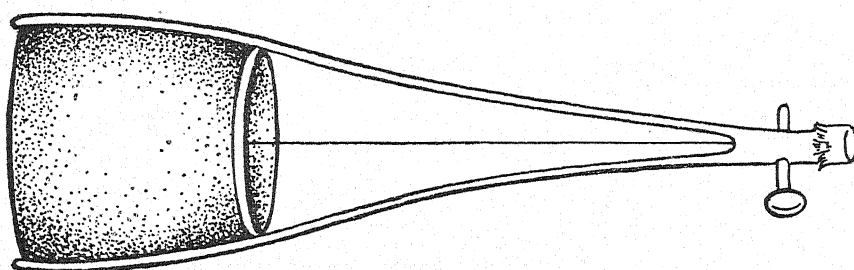
1 Dholoke 2 Madal 3 Khole

Musical Instruments II

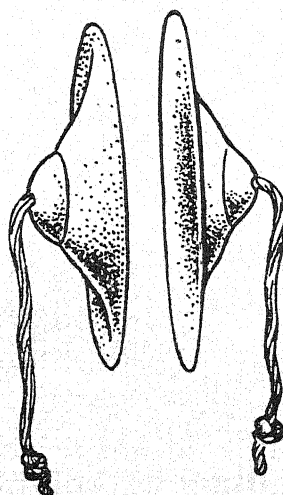
1



2

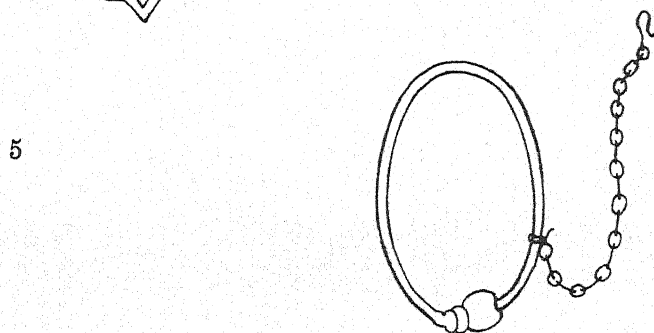
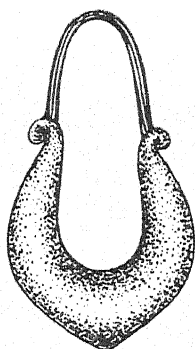
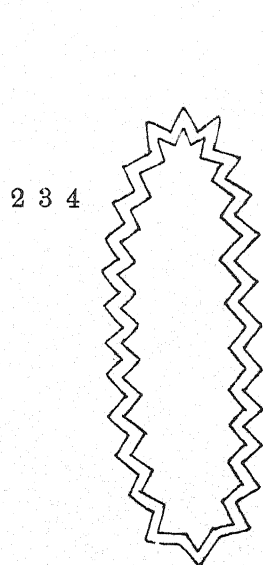
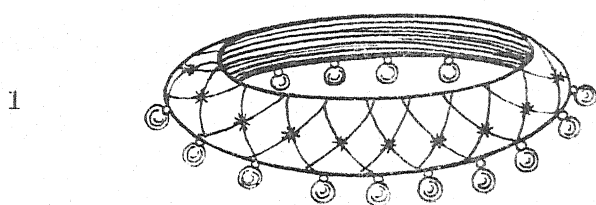


3



1 Banser Bansi 2 Gubi Jantra 3 Khartal

Ornaments



1 Mal 2 Churi 3 Makri 4 Churi 5 Noth

THE ANCIENT HINDU LAW OF PLEDGES AND BAILMENTS

BY

NIRANJAN ROY, M.A., B.L.

INTRODUCTION

In writing on the subject of ancient Hindu Law of Pledges and Bailments, something must be said, at the very outset, about the nature of sources from which this law is to be studied. In the first place, the British Indian Legislature has, since enacting the Indian Contract Act, in the year 1872, abrogated the provision of the Parliamentary Statute that when both parties profess to be Hindu or otherwise where the defendant happens to be a Hindu, the case will be decided on the principles of Hindu Law as regards all matters of contract. In writing therefore on the subject of Pledges and Bailments among ancient Hindus, we have no help whatever from any kind of law passed by the modern Indian Legislature or from any interpretation by the highest tribunals, of any current Common Law as prevalent among the people,—which has not been codified, but which is taken from the lips of judges—embodied in a series of precedents, as we find in the case of ancient Hindu Law of Marriage and Inheritance. It is true that prior to 1872, we should have available to us, precedents from the records of the Sudder Dewan-i-Adalut and later on, the chartered High Court, and these should throw considerable light on the subject. But, really, the reports afford but trifling and rare instances here and there of

cases on contract, which fail to sway our decision on important points, one way or the other. As long ago as the year 1825, Sir Francis Macnaghten in writing his chapter on Hindu Law on Contract in his "Considerations" which then was the law of British India on the subject, laments the paucity of cases,— "Although it is declared by Statute that all matters of contract and dealing be decided by the laws and usages of Hindus—I never knew or heard of an instance in which the Supreme Court was called upon to decide by such laws and usages"—p. 403, Part I. Of course, Dr. Ghose in his classic on Law of Mortgages in British India, notices some cases, *e.g.*, Shib Chunder *v.* Russick Chunder from Fulton's Report, which seriously discusses an important point in connection with the law of pledges—whether pledges can be effected without possession and Dr. Ghose criticises, at length, the dissentient judgment of Mr. Justice Grant. But whatever Dr. Ghose has in effect written upon the subject, he has written, drawing upon ancient and modern texts, that were available to him,—of an obsolete Law. Hence, the real source of *Ancient Hindu Law of Pledges and Bailments must be, as ever it is, the texts of Smritis in their Vyavahara Khanda.* Though Hindu Law does not distinguish between religious and moral precepts on one hand and between positive secular law on the other, in that it professes to derive its entire law which it comprehends under the term Dharma, from its greatest Book of authority—the Vedas which if at all, bears on religious law only, it still bears thousand repetitions to state, that the proposition is too broadly stated—that Hindu Lawgivers inextricably mixed up moral injunctions with positive compulsory texts of law. These positive texts are grouped together under eighteen headings—collectively called Vyavahara, of which, the law of Pledges forms an integral part of the first heading, which is called *Rṇādānam* or delivery of loans, and the law of Bailments, called *Nikshepa*, forms the second heading of Vyavahara Khanda. If we look into the Smritis, whose entire text has been handed to us, such as Manu, Yajnavalkya and Narada, we find our subject

very fully discussed there, leaving nothing vague or doubtful. Indeed, what strikes us, is the unanimity of conclusions, reached by the Smriti writers on our subject. Rather it will be more accurate to say, that each of them handled the same set of legal principles, that came down to them, from the same traditional source and that was why they reached the unanimity of conclusions. Of course, we must not be blind to the fact that most of the Smritis have come down to us in fragmentary and mutilated state, some are missing and our modern writers on the subject of Hindu Law, start with the idea that there are numerous hopeless gaps, and even the texts that are available, are often contradictory, which necessitate the inference that there were several stages of advance of juristic thought, like so many geological layers. But though it may be partially true, the state of matters must have been exaggerated. All ancient lore has come down to us by tradition—in other words, by oral transmission, so that these Dharma Sastras, are the most faithful reproduction of law of past ages, handed down through lips of generations of scholars in law, as in other departments of knowledge. The ancient Hindu Law of Pledges and Bailments has been very faithfully reproduced, in the Smriti texts, which have been all exhaustively discussed, in the *second great source—namely, a good number of commentaries and treatises on law, which go by the name of Nibandhas*. These Nibandhas leave nothing to be desired, their treatment is very methodical and in our treatment of the subject I have followed their method of arrangement. Whatever may be said of Hindu Law of inheritance,—so far as pledges and bailments are concerned, there is no provincial variation, there are no “Schools of Hindu Law.” We have not here, the one law of Mitakshara and another, of Dayabhag. From one end of India to the other, all Nibandhakaras have drawn upon the same materials and have arranged them on the same identical plan and the treatment has been full and detailed. In one sense, therefore, the task has been easier. If there are any discrepancies, they are few and minor, all agreeing on the fundamental points. We

have consulted for instance Mitakshara and Viramitrodaya, Smriti Chandrika and Vyavahara Mayukha, Vivada Ratnakara and Kritya Kalpataru ; we have consulted Colebrooke's Digest, which is a translation in English of the work of that Great Bengali Pandit of last century—Jagannath Tarkapanchanan—Vivada Bhangarnava. This Colebrooke's Digest was practically the only authority of early European writers on Hindu Law. This Digest may be adopted as Law of Bengal School, but its conclusions did not vary from those of other works in other parts of India. Among the early European writers, I have consulted F. W. Macnaghten in his "Considerations," Sir William Macnaghten in his "Principles," Sir T. Strange in his "Elements of Hindu Law"—in the chapter on Contracts and last, but not the least,—Sir William Jones' Essay on the Law of Bailments.

In this connection I must remark, that in treating on Hindu Law, some at least have tried to look at it through the spectacles of Roman Law,—which is not certainly a proper perspective. The one fault of this perspective is that the real aspect of Hindu Jurist is thus sometimes missed. The Roman Law was production of a gradual evolution in the hands of successive juriconsults ; we must not apply the same theory to Hindu Law, where the materials for erecting a full evolution theory are wanting. Here, we find a set of traditions faithfully handed down, with a wealth of detail, which it is a mistake to suppose were inventions of brain of particular law-givers. At least in pledges and bailments, Manu is not more ancient than Yajnavalkya and Narada, all cite the self-same text or texts with certain variations, meaning the same.

Accordingly in treating the subject, I have tried to steer clear of such *a priori* notions, and have found some facts, which do not tally with observations of others. In the first place, in the chapter on Pledges, I have discussed at length the element of possession in pledges and have found that pledges with possession are not more ancient than pledges without possession, as is supposed,

that Hindu Law-givers have contemplated pledges without possession and that fact of possession is not a point of classification of pledges but only a mode of proof. I have discussed, in this connection, the comparative efficacy of possessory evidence according to the Hindu jurists. I have further discussed that Sir T. Strange and others like him have committed an error in classifying pledges under Hindu Law, on the principles of English and Roman Law. Hindu Law classification is different. Hindu Law has strictly classified pledges under the first heading *Rṇādānam*—it cannot contemplate pledges without a loan and Sir T. Strange adopting the Roman and English classification has placed pledges first under Bailments and next also under Delivery of loans ; he has also placed contracts of hire for use with remuneration, under the heading Bailments,—while Hindu jurists have placed them under the Pledges—which is an integral part of the topic *Rṇādānam*. I have also pointed out the essential difference between pledges and bailments, in that, the essence of bailment is personal confidence, while essence of pledge is something other than this, namely delivery of money and articles to generate confidence. In fact, it will be absolutely misleading to follow Roman Law in these respects. I have treated pledges, under the following heads :—(1) Definition, classifications and characteristics of different pledges, (2) return or redemption of pledges ; (3) liabilities and immunities of the pledges while the pledge is in his custody ; (4) liabilities and immunities of the pledger, while the debt lasts. I have noticed in this connection, that personal liability of the pledger was always contemplated, that both foreclosures and sales of pledges, were followed in different circumstances, that foreclosure was the ordinary rule, that sale was allowed in certain specific circumstances, that sale could be effected, both at the instance of debtor and creditor. The liability is often combined with penalties levied by the State on the party in fault. The act of God and king—the *Vis major*—sums up all kinds of immunities of the pledgee.

The subject of bailment has been similarly treated under the following heads :—

(1) Definition, classification and characteristics; (2) duties of the bailee, while the object bailed is in his custody ; (3) the manner of return ; (4) penalties and liabilities ; (5) privileges and liabilities in special cases.

In cases of bailment also the act of God and king is the common term to designate all kinds of immunities. The manner of return of bailment is also couched in the same terms as the return of pledge. It is to be noticed in this connection that some kinds of transactions have been placed by writers under heading Bailment, which somewhat look like pledges, *e.g.*, Silpi Nyasa, but they are bailment proper because the fee charged by artisans are very small in comparison with the valuable objects in their charge.

In treating the subject I have always quoted the texts in original and noticed discrepancies, where they occur, which however do not affect the fundamental principles. Indeed, it is a great satisfaction if in such ancient subjects, a complete picture can be presented, and such a complete picture I have attempted to present with a full stock of materials at my disposal, which can answer any anxious query or, in short, which may embody a complete code.

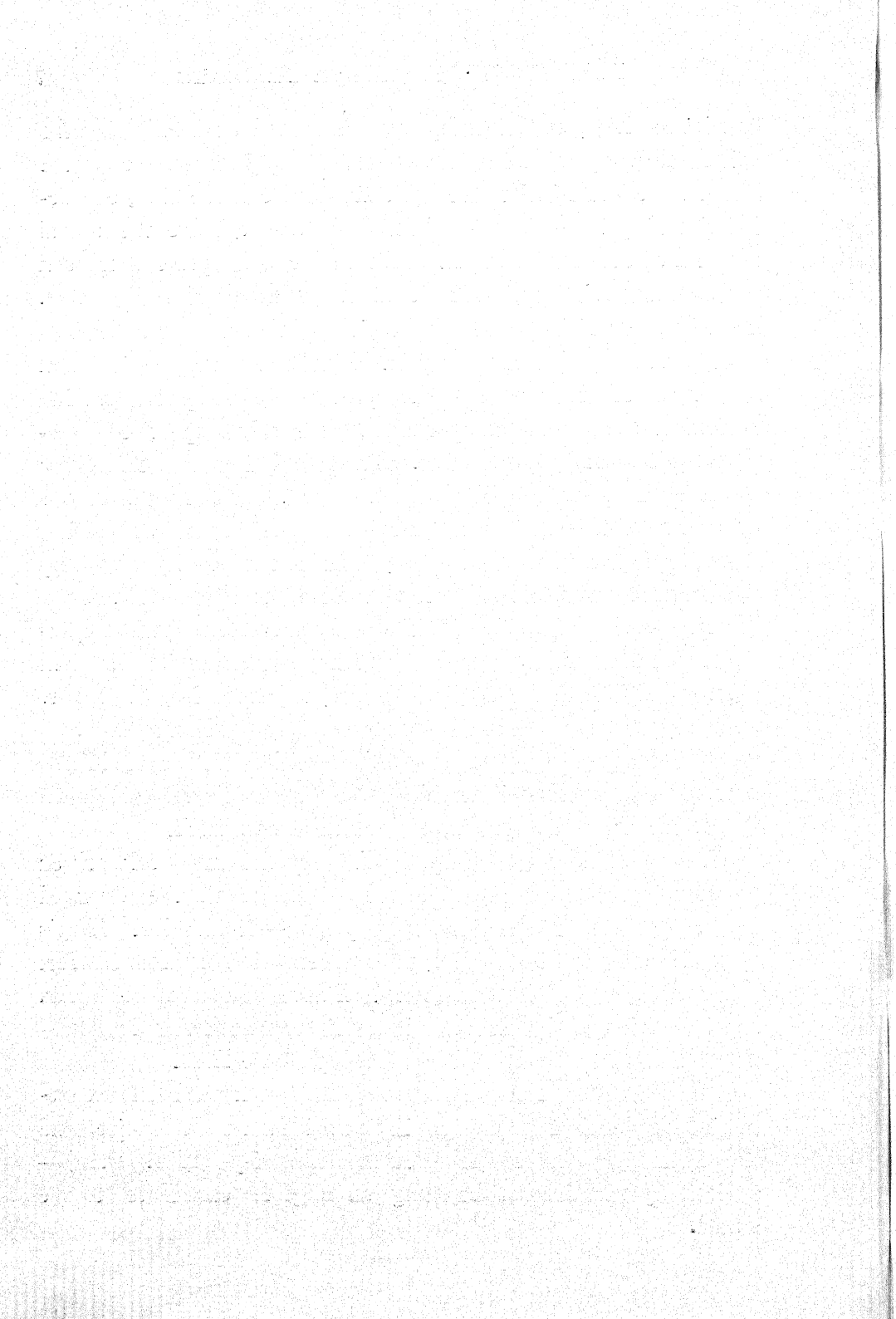
I have divided the entire work firstly into two separate self-contained chapters, the first chapter on Pledges, the second chapter on Bailments. Secondly, I have introduced a third chapter—specially devoted to the mode of treatment of the subject of Ancient law of Pledges and Bailments that is peculiar to Arthasastra of Kautilya, which has been the type of an Arthasastra on a comprehensive scale as yet available to us. We have been moved to do so because Kautilya presents certain novel features—such as *वैयाघ्रत्यविक्रय* or *निक्षेपः* in a novel conception and also because he keeps always the practical aspect in view. He touches only two points, common to both pledges and bailments :

first immunities, and secondly conduct, good and bad, of the bailee and the pledgee and he neglects the points which would rather appeal to a jurist, such as definition, classification, characteristics of pledges. This is because he tries to solve the actual problem of the law tribunal. It is rather a lawyer's handbook and as a lawyer's handbook it must be as brief as possible. Hence he economises space, by omitting to say what he has already said in a different context. Further he emphasises that these transactions were very much prevalent among the trading community, the members of whom were in this respect the prevalent suitors in the law courts. For all this reason, he merits a separate treatment, in a chapter of his own. At the end of the work, I have added an appendix to show the nature of earliest source of literature in this respect, to point out clearly the very few materials it affords, but nevertheless, whatever it affords, illuminates the parts of the field already traversed. This appendix serves to make clear our viewpoint, so far as the ancient nature of all our materials is concerned, to emphasise, that here we have got the most genuine sources of ancient Hindu Law.

I also append in form of a code entitled "Code of Hindu Law of Pledges and Bailments" the fundamental rules laid down by ancient Hindu law-givers, as detailed in this work.

I am indebted to the Imperial Library for my work which has been materially helped by the ready find of all the works I have referred to in the foregoing pages,—besides Dr. Jolly's book, *Recht and Sitte*, which have been used by me in Mr. Batakrisna Ghose's Translation. I have also consulted Dr. Jolly's edition of *Narada Smriti* and his translation of fragmentary *Smritis* in Vol. 33 of *Sacred Books of the East*.

In conclusion, I beg to state that this work has been executed independently by myself on my own ideas on the subject and that I am a graduate of the Calcutta University (M.A., B.L.)—a necessary qualification for being an eligible candidate to be stated.



CHAPTER I.

PLEDGES.

Definition and Classification and Characteristics of Different Pledges.

The Pledge is defined to be a transaction, in which, an article is handed down to another's *possession*, by its owner, either for enjoyment of its usufruct or for simple possession, as a lien, to be re-delivered to the owner, when the purpose, for which it was delivered, is fully served, that purpose being, securing repayment of a loan either in cash or kind, subject to certain special stipulations. These stipulations generally pertain to manner of repayment of the loan namely, that loan may be repaid either within a fixed limited period of time or any time, when either the principal or the interest or both are consumed out of the usufruct of the property pledged. In case of fixation of a limited period of time for repayment of a loan secured with pledge, it must be strictly fulfilled, of which we shall advert in the proper place, when we speak of redemption of a pledge. Thus then all authorities are agreed, that essence of a pledge is delivery of possession to creditor." "अधिक्रियते इत्याधिः इति नारदः." For the name of the pledge is Adhi and Narada takes its derivative meaning to define it. It is also called "बन्धः" or "बन्धकः," but is not an unequivocal term like Adhi, to denote a pledge. Brihaspati uses it synonymous with Adhi, meaning a pledge or security for a loan, when he says—"आधिर्वन्धः समाख्यातः." But he uses another meaning when he speaks of requisites of a loan transaction—"परिपूर्णं गृहीत्वाधिं बन्धं वा साधुलग्नकम् । लेख्यारूढं साक्षिमद् वा ऋणं दद्याद् धनी सदा ॥" This word "बन्धः" here is distinguished from

आधि (Ādhi) for this *Bandha* means delivery of pledge not to the creditor, but to a common friend, in whom both rely, to abide the time of repayment of the loan. This is pointed out by Narada—“निक्षेपो मित्रहस्तस्थो बन्धो विश्वासकः स्मृतः ।”

The following passage from *Smṛiti Chandrika* may be referred, when he discusses this apparent contradiction of the two passages of Brihaspati in using the word “बन्ध”—

“यद्येवम् आधिरेव बन्ध इति इहोच्यते, कथं तर्हि पूर्वस्मिन् वचने बन्धं वा इति भेदेन उक्तम् । उच्यते तत्र बन्धस्य पदस्य यो विवक्षितार्थः स हि नारदेन दर्शितः ।—निक्षेपो मित्रहस्तस्थो बन्धो विश्वासकः स्मृतः इति । उत्तमर्णधमर्णयोः यः सखा तस्य पार्श्वे वा निक्षिप्तम् एव अधमर्णधनम् उत्तमर्ण-विश्वासार्यम् अधमर्णेन उपदिष्टम् बन्ध इति गीयते इत्यर्थः ।”

As already said, the pledges are therefore fundamentally divided on the basis of two principles ; first on the principle of duration or tenure of repayment of loan—either with reference to a fixed time (सावधिकः or कृतकालः or कृतकालोपनेयः) or of indefinite duration (यावच्छिकः or यावद्देयोद्यतः). The second principle of division is the principle of the manner of possession with use or without use. With use, it is called भोग्याधिः or फलभोग्याधिः and without use, it is called “गोप्याधिः ।”

नारदः—अधिक्रियते इत्याधिः स विज्ञेयो हिलक्षणः ।

कृतकालोपनेयश्च यावद्देयोद्यतस्तथा ॥

Some authorities, for instance Narada and Brihaspati, divide pledges on the principle of nature of the articles pledged—moveable and immoveable “जंगमः” and “स्थावरः”.

नारदः—आधिस्तु द्विविधः प्रोक्तः जंगमः स्थावरस्तथा

सिद्धिरत्रोभयस्यास्य भोगो यत्रास्ति नान्यथा ।

Brihaspati also divides on the principle of “प्रमाणम्” or mode of proof—namely, pledges based on written instruments—“लेख्यारूढः” and “साक्षिमान्”, i.e., pledges based on oral testimony of persons who are present during delivery.

जंगमः स्थावरश्चैव गोप्यो भोग्यस्तथैव च ।

यादृच्छिकः सावधिश्च लेख्यारूढोऽथ साक्षिमान् ॥

(A) अधिः
 जंगमः स्थावरः
 (B) अधिः
 गोप्यः भोग्यः
 (C) अधिः
 यादृच्छिकः सावधिकः
 (D) —अधिः—लेख्यारूढः, साक्षिमान् ।

Brihaspati's passage, quoted above, has presented some difficulty to commentators. Actually he enumerates eight kinds of pledges, based on fourfold principle of classification. But how is it that he calls these only four? It is not a mistake in calculation, but recognising only four of them as fundamental and others fit to be classed under each of these four. But these four are difficult to be picked out. Here Narada throws some light. He divides the chapter on Rñādānam into twenty-five topics, of which chapter on pledges is the eighth in order, and he finishes the topic on pledges with the sloka No. 134, which Asahaya the commentator points out with the remark—"इति ऋणादाने आधिभेदः अष्टमः ।"

And then he passes on to the next topic, namely, the topic of written instruments beginning with the sloka No. 135. Asahaya begins with the remark—"अथ लेख्यभेदः," for Narada's scheme of treating civil law is very methodical,—in his introductory chapter, in passage No. 21, he sets forth the topics under each of the eighteen topics under which the civil law is to be dealt with—"ऋणादाने पंचविंशतिः षड् औपनिधिके स्मृताः" and Asahaya has done great service, by pointing, in each

chapter, the beginnings and ends of sub-headings. Now the definition and classification of pledges, which is put by Narada, at the very beginning of the topic, is set forth in slokas Nos. 124 and 125 of “ऋणादानम्”—

“अधिक्रियते इत्याधिः स विज्ञेयो द्विलक्षणः ।
 कृतकालोपनेयश्च यावद्देयोद्यतस्तथा ॥
 स पुनर्द्विविधः प्रोक्तो गोप्यो भोग्यस्तथैव च ।
 उपचारस्तथैवास्य लाभहानिर्विपर्यये ॥”

The passage No. 139, which occurs under the prakarana, *Lekhyabheda* of the chapter *Ṛṇādānam*, also classifies the pledges and that into jangama and sthavara, but only for the purpose of showing that effective possession is the essence of all pledges :—

“आधिसु द्विविधः प्रोक्तो जंगमः स्थावरस्तथा ।
 सिद्धिरत्रोभयस्यास्य भोगो यत्रास्ति नान्यथा ॥”

The meaning of this is that pledges, whether they be moveable or immoveable, are not effective or valid, unless they be appropriated, even though a written instrument may be executed, clearly demarcating and reciting the fact of pledge.

“यस्मिन् अत्र जंगमः स्थावरो वा प्रकारद्वयमध्ये आरूढ एव आधिः, न तु भुक्तः, ततो भोगेन विना तयोः लिखितमात्राधिचिह्नयोः अपि सिद्धिः अपि नास्तीति ।”

Therefore the classification for the sake of classification or the real classification is set forth in sloka No. 125 where we find four kinds mentioned—गोप्यः, भोग्यः, कृतकालोपनेयः and यावद्देयोद्यतः and these four may be taken to be what Brihaspati meant as “चतुर्विधः” when he actually enumerated eight kinds. Thus reasoning with reference to context, and joining together Narada and Brihaspati, we conclude that pledges are four mainly, namely “गोप्यः,” “भोग्यः” and “यादृच्छिकः” and “सावधिकः”

—that ‘लेख्यारूढः’ and ‘साक्षिमान्’ he cannot take into classification of pledges as ‘लेख्यभेदः’ and ‘साक्षिभेदः’ are two independent general topics under Rñādānam, and the principles in them apply to all alike pledges, sureties, or non-pledge, or, non-surety loans, that is why Narada says—

“विस्त्रम्भहेतुं दावत्र प्रतिभूराधिरिव च ।

लिखितं साक्षिणश्च हे प्रमाणे व्यक्तिकारके ॥”

The fact of writing or witnesses are the general means of proof—not a principle of classification—for pledges according to the author. As regards जंगमः and स्थावरः these words refer to the nature of the objects pledged and reference to nature is necessary to show that nature does not affect the fact of possession, as the indispensable mode of proof.

Asahaya however explains द्विलक्षणः in the line अधिक्रियते इत्याधिः स विज्ञेयो द्विलक्षणः as referring to जंगमः and स्थावरः and आधिः may be subdivided into कृतकालोपनेयः and यावद्देयोद्यतः and in another way again “गोप्यः” and “भोग्यः”.

Asahaya’s commentary (Dr. Jolly’s Ed.) may be set out *in extenso* :—

“अधिक्रियते अपि अधनिना संबन्धाधिकारम् आनीयते ।—इति आधिः । स च द्विविधः—चलाधिः, स्थिराधिश्च । सोऽपि द्विलक्षणो ज्ञेयः । एकः कृतकालोपनेयः, द्वितीयः यावद्देयोद्यतः । स पुनः आधिः अन्यप्रकारेण द्विविधः, एको गोप्यः रक्षणीयः, द्वितीयो भोग्यः, प्रकाश एव गृह्यतेत्यादिः ।”

It may be noted that Asahaya’s explanation is endorsed by Vivadaratnakar—“द्विलक्षणः स्थावरजंगमरूपः ।” Kṛityakalpataru’s view of Brihaspati’s passage, endorsed by Vivadaratnakara, is that the eight kinds are obtained by four principles governing them respectively, namely, nature, manner of possession, duration and means of proof. “अत्र जंगमस्थावरादियुग्मचतुष्टयेन चतुर्विधत्वम् । स्वरूप-प्रकार-काल-परिमाणैः चतुष्टयं, तद्-भेदेन अष्टत्वम् इति कल्पतरुकारः ।” Smṛiti Chandrika says—“यद्यपि अत्र आधिः अष्टविधो

दर्शितः, तथापि गोप्य-भोग्य-यादृच्छिक-सावधिकरूपभेदानाम् अत्र अनेकविशेष-विधुपयोगार्थ-तात्पर्यातिशयेन कथनम्, नान्येषाम् इति वक्तुम् 'प्रोक्तः चतुर्विधः' इत्युक्तम् ।" that is to say, other than the four,—Gopya, Bhogya, Yadrichchhika and Sabadhika are not so relevant under numerous topics of pledges as these four ; hence these four are referred to by Brihaspati as main kinds.

Viramitrodaya quotes from Bharadwaja :—

“आधितु त्रिविधः प्रोक्तो भोग्यगोप्योस्तथैव च ।

अर्थप्रत्ययहेतुर्यश्चतुर्यस्वान्नया कृतः ॥

आवर्णात् पूर्वलिखितौ भोग्याधिः श्रेष्ठ उच्यते ।”

“गोप्याधिः गोप्यते गृहे अर्थप्रत्ययहेतुर्यः प्रत्ययाधिः स उच्यते, आन्नाधिः नाम यो राज्ञा संसदा आन्नया कृतः ।”

The pledge is of four kinds—Gopya, Bhogya, Pratyaya and Ajñadhi. Bhogya is called the most superior kind, apparently because it is the most efficient security, prevalent among all classes.

The term प्रत्ययाधिः applies to a pledge of article for guaranteeing fulfilment of a promise and the term “आन्नाधिः” where the king, with his council, gets a pledge executed by a party as security for cost, etc. The latter two terms are new additions not recognised by others, but still they partake of essential nature of a pledge and may be placed under either of the four main kinds, noticed by others.

Now the question arises that among the kinds of pledges, so far noticed, we have dwelt upon all of them on the assumption of the fact that they can be made with possession. Can they be made, without delivery of possession—or *traditio*, as it is called in Roman Law—of article pledged ? Is there anything akin to hypothec in Roman Law,—in the Hindu Law ? Dr. Sir Rash Behari Ghose in his Lecture II of his celebrated work on Mortgages, says that there is a clear line of evolution traceable in this respect, that the earliest Hindu Law

always recognised a pledge as *ever* a pledge, that by no lapse of time the pledge could be destroyed but could be redeemed and that the early Hindu Law, as the early Roman Law, originally confused rights in rem and rights in personam and later on rights in rem were distinguished being possible only by *traditio* and hence, possession being an essential element in the acquisition of a real right, it was thought to be a necessary ingredient of a pledge, *i.e.*, a pledge effective against the whole world—and that just as in Roman Law, so in Hindu Law, the maturest development of law of pledges was that cumbrous formalities of *traditio* were dispensed with, gradually, and pledges could be executed even without delivery of possession. Dr. Ghose concludes that there can however be little doubt that in mature Hindu Law, the rule requiring tradition had fallen into disuse and that a real right, whether by mortgage or sale could be conferred, by a mere “expression of the intention of the parties,” and he cites a passage from the Mitakshara which shows, he says, the state of Hindu Law, on the point; he quotes from Macnaghten’s Hindu Law, Vol. I, pp. 218-219. The passage purports to deal with two rival titles upon land, claiming equal priority, or of which, “priority is indistinguishable.” In such a case, the passage lays down, that the rival with possession is to be accepted. But, the passage adds, and this is *material for the present point*, which Dr. Ghose puts in italics that—“when it is ascertained which is first in point of date, and which posterior, then the simple prior title, affords the stronger evidence.” This passage, clearly contemplates, that pledges are possible without delivery of possession. Before discussing the point fully, let us remark that the other point of Dr. Ghose, that the pledge originally was always redeemable, and that afterwards in later development of the law, it came to be unredeemable in certain circumstances,—we shall advert to, not at this place, but when we come to discuss the *redemption of pledges in Hindu Law*.

Now to revert to discussion of the question, whether, in

classification of pledges, pledges can be further classified on the ground of possession or non-possession. Hitherto, in all the modes of classification noticed, as dealt with before, we have taken *possession*, as the basis of all pledges. *Was this process of evolution traceable in Hindu Law*, as undoubtedly in Roman Law in this respect ? Was there anything corresponding to Hypothec in Hindu Law ?

Dr. Ghose does not wish to enter in detail upon the subject,—he merely contents himself with citing the passage from Mitakshara and arriving at his considered view, that there was some evolution on this point, akin to Roman Law. Now, in this connection, we may cite the remark of Dr. Ghose : “that Hindu Law cannot be properly understood, without some general knowledge of comparative jurisprudence, which alone can furnish us with a key to the apparent conflict in the written Law.” And the great comparative standard is the Roman Law, which great jurists take as the natural evolution of a whole course of legal thought, in Roman Law one can find, the most primitive, side by side with the most advanced state of the Law, and such also is the case with Hindu Law, and therefore the apparent conflict of the Smriti texts, one can reconcile, only on the supposition that there was an evolution, that advanced texts are inextricably mixed up with the most ancient, so that as Dr. Ghose observes, “in the digest of Jagannath side by side, with texts, which belong to the infancy of Law, we find others, which belong to a much more advanced stage of legal thought.” The course of Evolution in Hindu Law, which led up to the development of a pledge without delivery of possession is, according to Dr. Ghose, shortly this:—the texts, which declare that pledges must be made with delivery of possession are the earliest in point of time.

“अधिक्रियते इत्यादिः स विज्ञेयो हितक्षणः ।”

“सिद्धिरतोभयस्यास्य भोगो यत्रास्ति नान्यथा ।”

Then there came the interpretation upon these texts by the commentators, who, while professing not to change, but to expound the law, held that these texts were not absolutely prohibitive but only of a superior efficacy and the Mitāksharā passage is adverted, as an instance,—“but, when it is ascertained, which is first in point of date, and which posterior, then the simple prior title affords the stronger evidence.” And Dr. Ghose cites and adversely criticises the dissentient judgment of Mr. Justice Grant, in *Sib Chunder v. Rusick Chunder* (1842) Fult., p. 434. “The learned judge saw everything through the haze of natural law, which effectively concealed from his sight the existence of hypothecation in our system.”

Let us take also the parallel topic,—taken up by Dr. Ghose,—Redemption of securities.

Now, the texts, which Dr. Ghose took as representing the earliest law in this respect, are taken from Manu—Chapter VIII, Śloka No. 143. Whatever the length of time, a pledge may neither be sold nor assigned by the pledgee. “न चाधेः काल-संरोधानिसर्गोऽस्ति न विक्रयः ।” We may add passages of similar import as regards redemption of securities from other authorities also—“आधिः सीमा बालधनं निक्षेपोपनिधौ स्त्रियः । राजस्वं श्रोत्रियद्रव्यं न भोगेन प्रणश्यति ॥”—Nārada, Śloka No. 81 (Rṇādānam) (Dr. Jolly's Edition.) “Pledges, boundaries of property, properties of minors, bailment, women's property, king's property and the property of a learned Brahmin cannot be appropriated by enjoyment for any length of time.” But there is a proviso to this passage—

“प्रत्यक्षपरिभोगात्तु स्वामिनो द्विदशाः समाः ।

आधारादीन्यपि जोर्यन्ते स्त्री-नरेन्द्रधनादृते ॥”

Śloka No. 82 of Nārada.

But twenty years' adverse enjoyment puts an end to title of owners even to these objects,—pledges and others,—except

women's property and king's property. Yājñavalkya also lays down the same proposition with the same proviso :—

पश्यतो ब्रुवतो भूमेर्हानिर्विशतिवार्षिकी ।
 परेण भुज्यमानाया धनस्य दशवार्षिकी ॥
 आधि-सीमोपनिक्षेपजडबालधनैर्विना ।
 तथोपनिधि-राजस्त्रीश्रोत्रियाणां धनैरपि ॥”

II, Slokas Nos. 24 and 25.

The two slokas of Yājñavalkya form one sentence and Nārada makes clear the proposition importing the title by adverse possession over pledges, etc. Nor is Manu behindhand in this respect whom Dr. Ghose quotes, as representing the earliest view. The same passage which we have quoted from Nārada, is found in Manu—Chapter VIII, Sloka No. 149—and Manu equally also notes the exceptions and special cases against the general rule—

सम्योक्त्या भुज्यमानानि न नश्यन्ति कदाचन ।
 धेनुरुद्रो वहन्नश्वो यश्च दस्यः प्रयुज्यते ॥

Sloka No. 146, Ch. 8.

“यत्-किञ्चिद् दश वर्षाणि सन्निधौ प्रेक्षते धनो ।
 भुज्यमानं परैस्तूष्णीं न स तल्लब्धमर्हति ॥”
 “अजडश्चेदपोगण्डो विषये चास्य भुज्यते ।
 भग्नं तद्व्यवहारेण भोक्ता तद्व्यमर्हति ॥

Slokas Nos. 147 and 148.

These passages imply that the pledgee cannot use the pledge at any length of time, if the mutual relations between the parties are well understood by each other; but still there are circumstances, which may lull the pledgee into belief that he has got absolute right over pledge and then he may do whatever he likes with it, as an owner. These circumstances in a general way are imported by these passages. These circumstances which will be made clear afterwards in detail are, shortly, this that in

case of moveables for ten years and in case of immoveables—twenty years' possession, in face of owner, of an object by a third person, extinguishes title in the owner,—for the short reason that the owner, even with full knowledge and power to assert his rights, remains passive and silent over it, so that a presumption arises of a lawful title passing to the third person, by some transaction between the two, so that limit of time is prescribed after which it cannot be further disturbed.

‘परिण असंबन्धेन मुज्यमानां भुवं धनं वा पश्यतः अब्रुवतः मदीया इयं भूः न त्वया भोक्तव्या इति अप्रतिषेधयतः.....हानिः ।’.....मिताक्षरा (on II. 24).

We have laboured the point, so far, which finds its proper place, in the topic of right of redemption, vested in the pledgor,—to show that Manu, equally with the other authorities, quotes passages, which do not point to the theory of evolution, as one would expect from the propositions set by Dr. Ghose. Our present topic,—namely, the existence of something like hypothec in Hindu Law,—also, if discussed, reveals passages, which do not contradict one another, but reveal a striking unanimity of opinion, how pledges should be made ; had they contradicted each other,—were they totally irreconcilable,—then we might have been warranted in saying that these passages represent different ages of advance of legal thought and the growth in different environments therefore explain the contradictions. But if the passages as regards how pledges can be effected, supplement and not contradict each other,—if together, they furnish a complete picture, a consistent whole, then we are not entitled to say that some passages are earlier and some are later, but all equally hand down, most faithfully, a complete tradition. And this is equally the case,—we venture to say,—with topic of how pledges can be executed,—with or without delivery of possession—as also with the topic, how pledges can be redeemed—at which particular length of time—and if, at all, the right of pledgor can be extinguished, with corresponding accrual of title to the pledgee. It is a mistake to quote passages stripped of the context, in which they occur, and try to understand them, by themselves

alone, unaccompanied by their invariable associates. It is a mistake also to project the theories of development of Roman Law, upon the course of development of Hindu Law, without adequate data, unequivocal in character, which can illumine beyond doubt the dark corners of the new moon midnight of even the present state of Hindu Law. For we have texts of Smṛtis not at all clearly explored even now, some are mutilated, some fragmentary and some even where entire texts are missing. We have, on the other hand, complete text of the entire Roman Law, faithfully handed down and expounded, where different strata of thought can be clearly analysed, like the Geological layers. If we adopt the theory of Max-Müller, which still holds the field—that secular law was an outgrowth upon expounding of religious law—if Dharmasūtras were the aftermath of the Śrauta and Gr̥hya Sūtras and Dharmaśāstras were further development from the Dharmasūtras which we call Smṛiti, *i.e.*, tradition of popular and social conduct and customs and usages, but *which tradition was but a part of a consistent whole of traditional knowledge*,—consisting of the three main branches—Dharma, Artha and Kama,—we can very well appreciate the fact that anything in the Hindu Śāstras cannot be truly understood piecemeal and isolated. Not the Evolution theory, but the Static theory is truly applicable, specially to the matter in hand. It was already a *fait accompli* in Manu and others.

Turning then to the topic—*how pledges can be made*—“*Ādhi Siddhi*”—we can at once say, that all legal transactions, —Ādhi, not excepted,—were accomplished by three modes—by execution of a written instrument ; orally, in presence of witnesses ; and with or without written instruments and with or without witnesses,—by delivery of possession of the object of transaction. Hindu jurists recognise two words “*प्रमाणम्*” and “*सिद्धिः*,” *i.e.*, mode of proof and validity. The lawful title is called “*आगमः*” and “*सिद्धिः*” means “*आगमसिद्धिः*”—so that *प्रमाणम्* leads to *आगमसिद्धिः* and *Pramāṇam* is recognised to be, usually written document, witnesses and also possession, and

all these failing,—solemn oath or various kinds of ordeals. Further, the Hindu jurists discuss the comparative efficacy of these Pramāṇas in particular circumstances, in leading to Siddhi or validity of a transaction. For instance, witnesses must be present on the occasion—the documents are stronger than oral testimony, as they are more reliable, and last of all, in some cases, neither written documents, nor witnesses will give validity to a transaction which is unaccompanied by delivery of possession, for possession is the most efficacious mode of proof, where by long lapse of time, witnesses are wanting or failing in memory, written document is powerless, but long, undisputed possession remains. The ideal प्रमाणम् therefore is that—where oral testimony and documentary evidence are combined with delivery of possession (“भुक्तिः”). The following texts may be quoted in support of pre-going principles.

“लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतम् ।
धनस्वीकरणे येन धनी धनमवाप्नुयात् ॥”

नारदः, ऋणादानम्, 69.

“लिखितं बलवन्निष्ठं जीवन्तश्चैव साक्षिणः ।
कालातिहरणाद् भुक्तिरिति शास्त्रविनिश्चयः ॥”

Ibid, 75.

Asahāya comments on this latter that even without written instruments or witnesses only after long lapse of time, or enjoying for three or four generations one may win lawful title to treasure—where possession alone is the evidence.

“यदा पुनः कालातिहरणं भवति, तदा चतुर्थ-पञ्चमपुरुषोपरिष्ठात् अपि अपरिमितकालात् अपि सन्ततभुक्त्या एव धनी धनम् अवाप्नुयात् । एतत् प्रमाण-बलाबलम् उक्तम् ।”

“त्रिविधस्यास्य दृष्टस्य प्रमाणस्य यथाक्रमम् ।
पूर्वं पूर्वं गुरु ज्ञेयं भुक्तिस्तेभ्यो गरीयसी ॥”

नारदः, ऋणादानम्, 76.

Asahāya says that this passage deals with infirmity of title to immoveables, without delivery of possession, though the other two modes are available ; the passage also implies that simple possession without the other two also is equally infirm ; Asahāya's text (Dr. Jolly's Edition) may be quoted :—

“स्थावरविषये निरागमाया भुक्तेः दुर्बलत्वम् दृष्टम् । एवम् अनागमाया भुक्तेः दुर्बलत्वमात्रं प्रतिष्ठते । तस्याः पूर्वं प्रमाणम् साक्षिण उक्ताः । ते च यदि स्थावरस्य आगमप्रतिष्ठाकारिणो भवन्ति, ततो भुक्तिः प्रतिष्ठते ।.....एवं भुक्तेः पूर्वसाक्षिप्रमाणस्य गुरुत्वम् आपन्नम् । ततश्च आगमद्वारेणैव साक्षिभ्यो लिखितं श्रेय इति । एवं च आगम-प्रतिष्ठिता सती भुक्तिः तेभ्यः साक्षि-लिखित-दिव्येभ्यः गरीयसी ॥”

The next passage, passage No. 77, emphasises importance of “भुक्तिः” in “आगमसिद्धिः” of immoveables :—

“विद्यमानेऽपि लिखिते जीवत्स्वपि हि साक्षिषु ।

विशेषतः स्थावराणां यन्न भुक्तं न तत् स्थिरम् ॥”

It may be noted in passing that authorities such as Viṣṇu Smṛti, do not recognise possession as प्रमाणम्—they recognise only oral witnesses and written instrument and oaths and ordeals. But Viṣṇu Smṛti discusses the importance of possession in case of certain transactions, which, all are agreed, must be accompanied with possession, and among these, are the pledges,—

“तस्य च भावनास्तिस्त्री भवन्ति—लिखितम्, साक्षिणः समयक्रिया च ।”

Viṣṇu, 23, Ch. 6.

“ययोर्निक्षिप्त आधिस्ती विवदेतां यदा नरी ।

यस्य भुक्तिः फलं तस्य बलात्कारं विना कृता ॥”

Ibid, 180, Ch. 5.

“सागमेन च भोगेन भुक्तं सम्यग् यदा भवेत् ।

आहर्त्ता लभते तत्र नापहार्यं तु तत् क्वचित् ॥

Ibid, 181, Ch. 5.

This passage emphasises सागमा भुक्तिः,—possession with title. Possession without आगम or title is possession by force.

And all acts that are done by force, therefore are “असिद्धः”—unlawful. There is not a title of आगम, where force, fraudulent misrepresentation, etc., are present. Hence Manu declares :—

“बलाद् दत्तं बलाद् भुक्तं बलाद् यच्चापि लेखितम् ।
सर्वान् बलकृतानर्थानकृतान् मनुरब्रवीत् ॥”

Passage No. 168, Chapter 8.

“सम्भोगो दृश्यते यत्र न दृश्येतागमः क्वचित् ।
आगमः कारणं तत्र न सम्भोग इति स्थितिः ॥”

Passage No. 200, Chapter 8.

Also,

“योगाधमनविक्रोतं योगदानप्रतिग्रहम् ।
यत्र वाप्यपधिं पश्येत् सर्वं विनिवर्त्तयेत् ॥”

Passage No. 165, Chapter 8.

So, Nārada—

“अन्वाहितं हृतं न्यस्तं बलावष्टब्धयाचितम् ।
अप्रत्यक्षं च यद् भुक्तं षडेतान्यागमं विना ॥”

Passage No. 92, Rñādānam.

Anything that is fraudulently under-pledged, that is misappropriated as a theft, that is appropriated by force, are all possessed without lawful title and such illegal possession even for a hundred years, won't avail—

“अनागमं तु यो भुङ्क्ते बह्वन्यद्दशतान्यपि ।
चौरदण्डेन तं पापं दण्डयेत् पृथिवीपतिः ॥”

Passage No. 87, *ibid.*

But there may be dubious circumstances, where a legitimate presumption arises, of lawful title passing to a third person, by virtue of ten years' possession in case of moveables and twenty years' possession in case of immoveables, where the owner looks on the unequivocal assertion of ownership by third person,

without raising his little finger even in protest; and even, an unlawful title may become lawful, when it is enjoyed openly without interruption for three generations and further on the same principle when father dies, enjoying with a good semblance of title, the object in the hand of his heir, cannot afterwards be demanded by the owner—

“पित्रा भुक्तं तु यद् द्रव्यं भुक्त्याचारेण धर्मतः ।

तस्मिन् प्रेते न वाच्योऽसौ भुक्त्या प्राप्तं हि तस्य तत् ॥”

“त्रिभिरिव च या भुक्ता पुरुषैर्भूर्यथाविधि ।

लेख्याभावेऽपि तां तत्र चतुर्थः समवाप्नुयात् ॥”

Viṣṇu, Chapter 5, Ślokas Nos. 182 and 183.

It is thus clear that in opinion of all authorities, “सिद्धिः” or validity is what matters, in all transactions and pramāṇas are useful, so far as they give validity. This validity—आगमसिद्धिः may be secured by means of writing—where all particulars are unequivocally set forth—

“जातिसंज्ञाधिवासानामागमो लेख्यतः स्मृतः ।”

Nārada, Passage No. 134, Rṇādānam.

Asahāya quotes “कल्याणभट्ट” —

‘लेख्यतः आगम इति यदुक्तं तत् पञ्चारूढपत्रम्, नवांगसंपूर्णम् आगमशब्देन सूचितम्—यथोक्तं त्रिषष्टिलेख्यप्रकरणकारक-कल्याणभट्टेन—तत्कालिक-राज-धनिकर्णिकसाक्षिलेखकैः अंगैः पंचभिः एतैः पत्रं पञ्चारूढं भवति ।’

It is to be noted that in this passage No. 134—is hinted, the full-fledged requirements of a “सागम आधिः.” It is a written instrument, which is fully attested both as regards its contents and form, by witnesses and which is fully clear and definite about all particulars. Possession is however required, where, when the time comes for dispute with a third person, after a long lapse of time, when both the debtor and the witnesses may be dead or the scribe may not be available or where otherwise, proof becomes a most difficult matter. In that context, we have a couple of

successive passages from Narada—the first requirement is that the pledge—instrument must definitely specify the object pledged and secondly, possession is absolutely required, be the object pledged—moveable or immoveable—it does not matter.

“भूताः स्यः साक्षिणी यत्र धनिकर्णिकलेखकाः ।

तदप्यपार्थं लिखितं न चेदाधिः स्थिराश्रयः ॥

आधिस्तु द्विविधः प्रोक्तो जंगमः स्थावरस्तथा ।

सिद्धिरत्रोभयस्यास्य भोगो यत्रास्ति नान्यथा ॥”

(Rṇādānam, 138, 139.)

Hence possession is required, because as Asahaya says in comment on passage No. 139, which is supposed to speak of possession, as indispensable necessity, that possession is called for, in a case, where the written instrument is clear and definite,—for after long lapse of time, or otherwise, it is difficult to prove title, without possession. “भोगेन विना तयोः लिखितमात्राधिचिह्नयोः अपि सिद्धिः अपि नास्तीति ।”

But the Jurists contemplate also cases, where the creditor need not have delivery of possession at all, where means can be contrived, that still the object can be marked or singled out as pledged thereby. This is particularly in a case, where pledge is kept with a common friend of both debtor and creditor. In fact, as Narada remarks—“लिखितं साक्षिणश्च द्वे प्रमाणे व्यक्तिकारके ।”—the pledges have two *pramāṇas* to back them—written instrument and attesting witnesses; and Brhaspati also agrees, dividing into “लेख्यारूढः” and “साक्षिमान्” but possession comes into question, because otherwise “अगम” cannot be set up. Pledging with a common friend therefore, is a case, where, possession of creditor, is dispensed with as there is a means to dispense with such possession.

“निक्षेपो मित्रहस्तस्थो बन्धो विश्वासकः स्मृतः ।”

—Narada.

There may be another case, also, where the object may be kept in a common treasure house or a definite one, marked and secured in custody of the pledgee. Smṛti Candrikā therefore, comments—“गोप्याधी निर्भोगे भोगस्थानीयभाण्डागारान्तर्निधानादिव्यापारात् आधित्वसिद्धिरधिवसेया । पवम् ‘अस्माकम् एतदीयं गृहाद्याधिः’ इति ऋणिकसन्निधौ मध्यस्थजनेषु आवेदनं दूरस्थत्वादिना, भोगाद्यभावे तु आधिसाधकम् इति मन्तव्यम् ।”

There may be a case, where pledgee may be far away from the pledgor—in that case, pledge is simply निवेदित or kept with a friend of the pledgee—as hinted at by Brhaspati, also corresponding to Śloka No. 138 of Narada, Rṇādānam, above quoted—

“न भुङ्क्ते यः स्वमाधानं न दद्यान्न निवेदयेत् ।

प्रमीतसाक्षी ऋणिकस्तस्य लेख्यमपार्थकम् ॥”

Smṛti Candrikā may be also quoted in comment on this—

“सिद्धेः सन्दिग्धलेख्यशुद्धिरपि प्रयोजनम् इत्यर्थात् उक्तम् ।

एवमेव आधोयमानव्यक्तिविशेषोल्लेखनेन लेखनम् अपि आधिसाधकम् ।”

There may be cases also where whole villages are pledged and there not possession, but writing alone, demarcating fields and their boundaries on a writing executing the pledge is necessary—

Hence Kātyāyana,—

“मर्यादाचिह्नितं क्षेत्रं ग्रामं वापि यदा भवेत् ।

ग्रामादयश्च लिख्यन्ते तदा सिद्धिमवाप्नुयात् ॥”

Hence, considering all these, the conclusion follows that possession is ordinarily necessary to prove “आगमसिद्धिः,” but where possession is impracticable or may be dispensed with, which cases are also noticed here, the सिद्धिः equally follows. Further, the scope of passage of Narada, 139, is limited to its context,—namely it is used to explain significance of possession in connection with execution of pledges and not saying

that without possession pledges cannot be executed. Rather there are two recognised modes of execution mentioned by Narada himself—"लिखितं साक्षिणश्च द्वे प्रमाणे व्यक्तिकारके ।"

In light of this conclusion, therefore, we may judge the claim of two disputants over a particular object on ground of pledge. Of the two, one with and other without possession, one with possession is preferred.

“क्षेत्रमेकं द्वयोर्बन्धे दत्तं यत् समकालिकम् ।
येन भुक्तं भवेत् पूर्वं तस्य तत् सिद्धिमाप्नुयात् ॥” (बृहस्पतिः)

Similarly where there are two written instruments, one with possession is preferred.

“तुल्यकालेऽभिसृष्टानां लेख्यानामाधिकर्मणि ।
येन भुक्तं भवेत् पूर्वं तस्याधिर्बलवत्तरः ॥” (बृहस्पतिः)

If both come with equal claim to possession, the pledge may be shared by them, both in equal shares :—

“यद्येकदिवसे तौ तु भोक्तुकामावुपागतौ ।
विभज्याधिं समं तेन भोक्तव्य इति निश्चयः ॥” (वशिष्ठः)

But where already one has taken possession, there is nothing more to give by way of a second pledge—for title has already passed ; for, in that case the superior right is the only right that can be accepted between the two ; but where both are present to take possession at the same time, title has not yet accrued to either. In light of these remarks the following passages may be quoted :—

“आधिमिकं द्वयोर्यस्तु कुर्यात् का प्रतिपद भवेत् ।
तयोः पूर्वकृतं ग्राह्यमाधाता चीरदण्डभाक् ॥” (कात्यायनः)

“गोचर्ममात्राधिकां भुवम् अन्यस्य आधीकृतां तस्मात् अनिश्चोच्य अन्यस्य यः प्रयच्छेत् स वध्यः, ऊर्णां चेत, षोडशासुवर्णान् दण्ड्यः ।”

In such cases, where the pledgor dishonestly makes one to part with good money, but is unable to give effect to the pledge as it has been already appropriated by another, he commits theft ; not so,—in a case—where one has effected pledge with more than one person, but possession has not been given to any. Hence, more than one mortgage can be effected, without possession, but only one, with possession ; further, the prior mortgagee is always postponed to the posterior mortgagee, where the posterior mortgagee has possession ; for, the rule, “आधौ प्रतिग्रहे क्रीते पूर्वा तु बलवत्तरा ।”, has reference to the fact, that such pledges, exchanges and sales—are both prior in time and effected with delivery of possession. Mitākṣarā explains lucidly this point :—“या स्वीकारान्ता क्रिया सा पूर्वा बलवती, स्वीकार-रहिता तु पूर्वापि न बलवती इति ।”

We underline the latter portion to show this point. Hence, the general rule may be applied, where, the dispute is not between two pledges, but two transactions, the prior being a pledge, and the other a non-pledge, the latter transaction is conclusive of the mutual legal relation between the parties.

Smṛti-Candrikā says in this connection in its comment on Yājñavalkya's passage—

“सर्वेष्वर्थविवादेषु बलवत्युत्तरा क्रिया ।

आधौ प्रतिग्रहे क्रीते पूर्वा तु बलवत्तरा ॥”

“यदा प्रथमम् आधिम् आधाय धनी धनं दत्त्वा पश्चात् अवञ्चकत्वं विज्ञाय, आधिमन्तरेणैव, अतः ऊर्ध्वम् ऋणम् आस्तां त्वयि इति प्रकारान्तरेण पुनः क्रियां करोति, तदा निराधिक्रियैव बलवती इति ।” —स्मृतिचन्द्रिका ।

Kātyāyana says that, of two pledges, irrespective of time, one, where it is effected before attesting witnesses only, is not preferred to the other, where it is effected by a written instrument only :—

‘आधानं विक्रयो दानं लेख्य-साक्षिकृतं यदा ।

एकक्रिया-विरुद्धं तु लेख्यं तत्रापहारकम् ॥”

Of two instruments again, one, which vaguely describes the property pledged, is not preferred to one, which describes it in definite particulars.

Hence Kātyāyana says :—

“अनिर्दिष्टं च निर्दिष्टमेकत्र च विलेखितम् ।
विशेषलिखितं ज्ञाय इति कात्यायनोऽब्रवीत् ॥”

Kātyāyana also explains what he means by the words, “निर्दिष्ट” and “अनिर्दिष्ट”—the latter is that property which is put vaguely as the sky overhead in some such words as “I pledge all my property.” And the former means a property which is described as so and so, with definite number, size, position, etc.

“यो विद्यमानं प्रधानमनादिष्ट-स्वरूपकम् ।
आकाशभूतमादध्यादादिष्टं नैव तद् भवेत् ॥”

So, he further says—

“यस्तु सर्वस्वमादिश्य प्राक् पश्चान्नामचिह्नितम् ।
आदध्यात्तत् कथं नु स्याच्चिह्नितं बलवत्तरम् ॥”

If one at first says—“I pledge all my property” and executes a writing to that effect, that will be cancelled by another writing executed subsequently, which definitely describes the particular objects that are given, both according to the general rule—“सर्वस्वविवादेषु बलवत्युत्तरा क्रिया”—as also on the ground that the later instrument is more definite and specific. It may be remarked here in this connection that these passages clearly contemplate pledges over general assets, not that they are invalid, but that they will not be preferred to pledges over specific assets for the same debt.

Dr. Ghose, in Lecture II of his classic on mortgages, p. 51 (fourth edition), when dealing with the question, whether second mortgage is permitted by Hindu Law and also dealing with priority of mortgages, does not sufficiently bring out the

basic principle, on which these questions must be decided, which is adopted by our ancient writers, though he arrives at the correct conclusion, which he does not however sufficiently set out. The basic principle is the fact that possession after all is a mode of proof and in a question, between any two transactions, to decide their comparative validity, where the element of possession does not enter into the controversy, written instruments are preferred to oral testimony and where possession is in question, that alone decides the matter, though it must be *bona fide*. Dr. Ghose says, at footnote No. 4, p. 50 of his book—as noted in *Dāyatattva* of Raghunandana,—“hypothecation was a common mode of mortgaging property at least in Bengal, in the sixteenth century,” *i.e.*, when Raghunandana lived. As just now discussed at length, it appears, that it was not so late as sixteenth century, that proof is forthcoming of hypothecation in Hindu Law, or for the matter of that, it is limited to Bengal only, but bearing the basic principle of pledges in mind, we may safely assert, that it is as old as anything in the law of pledges—that it was known and practised wherever Hindu Law was prevalent, though comparative superiority attached to pledges with possession,—so much so—that they ousted pledges orally effected or effected only with execution of written instrument. Now, there has been in British India a highly refined and efficient method of registration of assurances, which had no counterpart possibly in ancient India or anywhere else in ancient times, when naturally importance of possession was emphasised.

Now we pass to the other topic, *how pledges can be redeemed, or when, if at all, redemption of pledge is barred*.

In dealing with this topic, we must note the fact that law of pledges is an indispensable part of the law of loans,—without loans, pledges cannot be thought of and repayment of the loan is inseparably bound with the return of pledge. The pledge is given to secure the return and—full return. Therefore in every case, the value of pledge must equal or be taken to be equal to the full value of the loan when it matures, and every loan

matures when the maximum interest is reached in every case. Therefore pledges are given, that will equal the principal and maximum interest taken together in value. If through the fault of the debtor or otherwise, in which the pledgee has no hand, the pledge falls from this standard value, deficiency is to be made up or a new pledge, adequate, must be provided. Hence as an inevitable corollary, it follows—that when the debtor fails to pay his debt when it matures, either the pledge is sold or it is foreclosed. Some contend that there was no foreclosure at all, in other words, once a pledge, always a pledge—it is taken to be the earliest law, when idea of full security was not sufficiently developed, on analogy of the Roman law, where creditor's rights grew only gradually. The argument is that Manu's passage, “न चाधेः कालसंरोधान्निसर्गोऽस्ति न विक्रयः ।” represent the earliest view and the most advanced view is—where it could be foreclosed, on reaching of the maximum interest. We have already cited parallels to this Manu from other authorities and also cited other passages following in close sequence in Manu himself, which qualify this proposition—in other words—the statement that once a pledge is always a pledge is to be understood subject to a certain proviso, which corresponds to our modern law of prescription and limitations by adverse possession,—we shall not repeat the same thing over again, but we find, as we have already said that in case of moveables, ten years' prescription and for immoveables, 20 years' prescription is prescribed, by which even ownership of pledges may be transferred to the pledgee. But this is general law of limitation, which, by stipulation between the parties, may be waived or substituted as in cases of “फलभोग्याधिः”, —Yājñavalkya says—“फलभोग्यो न नश्यति ।” That is to say where the pledge repays itself by its usufruct. The popular meaning assigned to this class of pledges is called “क्षयाधिः.” In short, the two principal classes of pledges are recognised by all the authorities including Manu—“भोग्याधिः” and “गोप्याधिः” with their varying incidents. The former is to be not only held but its usufruct is to be

consumed for the loan. The latter is to be simply held in custody till repayment of the loan. The first striking difference between them is this, that in case of भोग्याधि: no interest shall be charged—in other words, interest is represented by the usufruct. Hence Manu says—

“न त्वेवाधौ सोपकारे कासीदीं वृद्धिमाप्नुयात् ।”

Manu, Chapter VIII, 143.

Viṣṇu Smṛti also says—“आभ्युपभोगे वृद्धभावाः ।” (Chapter 6, Rule No. 5). As we have already said—“न चाधेः कालसंरोधान्निसर्गोऽस्ति न विक्रयः ।” is the second half of the same passage which speaks of “सोपकार आधिः” or “भोग्याधिः.” All commentators are agreed that a different treatment is meted out to गोप्याधि: or to adopt Manu’s phraseology, “अनुपकाराधिः.” “गोप्याधिः” in short, may be, with interest doubled, forfeited in absence of any special contract,—that even, before doubling, if the time is fixed for repayment that time must not be allowed to pass (कृतकालोपनेयः), or that even if interest is equal to the principal there may be no forfeiture, but the creditor may realise his debt by sale of the security in presence of witnesses, with usually some grace period in which he is to wait before sale, usually ten days—or that it may be that the pledge may repay itself, so that in due course, the creditor is to release the security, after the debt is fully satisfied, as agreed. Apart from any such kind of special stipulation, however, the general law takes its course, that is to say, in case of Gopyādhi, where there is no such special stipulation, after the interest doubles, a period of fourteen days’ grace is allowed, when he may either foreclose or sell the security to realise his debt. There is an interesting argument, adopted by all commentators to explain in a case of foreclosure, under such circumstances, how is it that ownership accrues to the pledgee. The Mitākṣharā answers that acceptance of pledge is popularly a tentative mode of accrual of title, which becomes conclusive as soon as fourteen days’ grace expires.

“आधीकरणमेव लोके सोपाधिकस्वत्वनिवृत्तिहेतुः, आधिस्वीकारश्च सोपाधिकस्वत्वापत्तिहेतुः प्रसिद्धः । तत्र धनद्वैगुण्ये निरूपितकालप्राप्ती च द्रव्यदानस्य अत्यन्तनिवृत्तेः अनेन वचनेन अधमर्णस्य आत्यन्तिको स्वत्वनिवृत्तिः उत्तमर्णस्य च आत्यन्तिकं स्वत्वम् भवति ।”

Smṛti-Candrikā, on the other hand says, that it is a kind of exchange—

“स्वत्वविनिमयः” “स्वत्व-प्रतिग्रहः” “द्वैगुण्ये तु यद्यपि ऋणग्रहणकाले, यद्यहं द्वैगुण्येऽपि आधिं न मोक्षयामि तदा आधिरेव आनृणाय तव भविष्यति, इति धनिकर्णिकयोः धनविनिमय-संप्रतिपत्ति-नियमाभावः, तथापि यत्रैवेयं संप्रतिपत्तिः कृता, तत्रैव द्वैगुण्ये स्वत्व-ध्वंसः, हेतु-सद्भावात्, तद्विषयं च “आधिः प्रणश्येत्” इति वचनम् इति अनवयम् । एवं क्रयविक्रयाद्यभावेऽपि विनिमयेनैव आधौ धनिकस्य स्वत्वापत्तिः ब्रह्मादी इव तिलविनिमयकर्तुः इति युक्तम् उक्तम्— “बन्धकस्य धनी स्वामी द्विसप्ताहं प्रतीक्षते ।”

The meaning of this is that this forfeiture is equivalent to an exchange of two properties understood to be made on consent as it were where automatically, the property, on doubling of the interest, comes into possession of the pledgee as owner, in absence of special stipulation. The fourteen days' grace is necessary in order to confirm or make final this kind of exchange. It is, as it were, that property is exchanged for the debt, both being equal in value.

However the fact remains that in absence of stipulation, the interest becomes equal to the principal and then automatically the foreclosure follows on fourteen days' grace.

But we should note that interest doubles the debt as maximum only in gold coins. There is a ten days' grace, where the gold coins are not concerned but clothes, etc., we know that for different articles lent different rates of interest are charged and different maximum is fixed in each case. For gold coins, the interest being double the principal is the maximum ; for clothes, the maximum is four times the principal ; for corn lent, the maximum is treble the principal and so on.

“सन्ततिस्तु पशुस्त्रीणां रसस्याष्टगुणा परा ।
वस्त्रधान्यहिरण्यानां चतुस्त्रिंशद्विगुणाः स्मृताः ॥”

—याज्ञवल्क्यः ।

Brhaspati speaks in a most general and concise way :—

“पूर्णावधौ शान्तलाभे बन्धे स्वामी धनी भवेत् ।
अनिर्गते दशाहे तु ऋणी मोक्षितुमर्हति ॥”

When the interest reaches its maximum, or when the stipulated period comes to an end, waiting for ten days more, the creditor is entitled to foreclose. To this general formula, comes the special proviso of Yājñavalkya and others—that is to say, passages as for example—

“हिरण्ये द्विगुणीभूते पूर्णे काले कृतावधौ ।
बन्धकस्य धनी स्वामी द्विसप्ताहं प्रतीक्षते ॥
अतोऽन्तरा धनं दत्त्वा ऋणी बन्धमवाप्नुयात् ॥”

—व्यासबृहस्पती ।

याज्ञवल्क्यः—“आधिः प्रणश्येद् द्विगुणे धने यदि न मोक्ष्यते ।”

These are special provisos—in favour of creditors of gold coins. Smṛti-Candrikā remarks upon the passage of general import attributed to Brhaspati—

“तद् वृद्धार्थप्रयुक्त-वस्त्रादिविषयम् ; ब्राह्मणेभ्यो दधि दीयताम् इत्यादिवत् सामान्यविशेषन्यायात् । लाभशान्तिरपि वस्त्रादी त्रैगुण्यादिविधायक-वचनानुसारेण अवगन्तव्या । एवं च चतुर्दशदिनात् ऊर्ध्वम् आधौ स्वत्वापत्तेः यथेष्ट-विनियोगः हिरण्यप्रयोक्तुः अविरोद्धः । वस्त्रादिप्रयोक्तुस्तु दशदिनात् ऊर्ध्वम् एव इति मन्तव्यम् ।”

Brhaspati emphasises the period of grace, during which title does not accrue to the pledgee—and he emphasises the duty of the pledgee in this respect—

“गोप्याधिर्द्विगुणादूर्ध्वं कृतकालो यथाविधि ।
आवेदयित्वा ऋणिकुले भोक्तव्यः समनन्तरम् ॥”

The word समनन्तरम् is also read as तदनन्तरम् but does not affect the meaning thereby.

But when the time comes to redeem, but debtor's death takes place before that or the debtor before that has gone abroad and has not been heard of since, a clear duty devolves on creditor to move in the matter, namely to remove the pledge from his custody to a neutral place, wait for ten days and then sell the pledge openly in presence of witnesses and satisfying himself out of the sale-proceeds leave the balance to the heirs and representatives of the debtor on the spot. So Brhaspati says :—

“हिरण्ये द्विगुणोभूते मृते नष्टे ऽधमर्णिके ।
द्रव्यं तदीयं संगृह्य विक्रीणीत ससाक्षिकम् ॥
ऋणानुरूपं परतो गृह्णीत दशाहादन्यत्तु वर्जयेत् ।”

This ten days' grace is to be distinguished from ten days' grace on default of debtor. We have already referred to चयाधिः to which Manu's dictum—“न चाधिः कालसंरोधान्निसर्गोऽस्ति न विक्रयः” fully applies. Yājñavalkya fully describes it—

“यदा तु द्विगुणीभूतमृणमाधौ तदा खलु ।
मोच्य आधिस्तदुत्पन्ने प्रविष्टे द्विगुणे धने ॥”

When the debtor is not in default, if the creditor attempts to delay or obstruct the debtor in the way of redemption, he commits the offence of theft. We have already referred to the creditor's duty in this respect in selling after ten days. The debtor may also in like circumstances, without selling, keep it in custody of a neutral person without accrual of further interest, pending the arrival of the creditor. “तत्कालकृतमूल्यो वा तत्र तिष्ठेदवृद्धिकः ।” (Yājñavalkya.) Mitākṣarā remarks—
“न तत ऊर्ध्वं विवर्द्धते यावत् धनी धनं गृह्णीत्वा तमाधिं सुञ्चति, यावत् वा तत् मूल्यद्रव्यम् ऋणी न प्रवेशयति ।” Where the pledge is more valuable than the accrued debt, it must be put to sale and satisfaction must be out of sale proceeds, as it is stipulated that

there cannot be any forfeiture or foreclosure in such a case, even when the debt reaches the maximum interest “विना धारणिकाद् वापि विक्रीणीत ससाक्षिकम्”—II.64. Mitākṣarā remarks on this—“यदा तु द्विगुणीभूते अपि धने द्विगुणम् धनमेव ग्रहीतव्यम् न तु आधिनाशः इति विचारितम् ।” Kātyāyana says that the balance of sale-proceeds may be kept in custody of the king in absence of relations “आधाता यत्र न स्यादानी बन्धं निवेदयेत् । राज्ञे ततः सविज्ञातो विक्रेय इति धारणा, अद्विदिकं गृहीत्वा च शेषं राजन्यथार्पयेत् ।” Smṛti-Candrikā remarks “ज्ञात्यादि-प्रत्यासन्नाभावविषयम् एतत् ।” Sometimes, the creditor asks, the heir to take back the pledge satisfying him, and if he refuses, may re-pledge to a third person, but this third person is not obliged to pay him interest. In such a case it is called “अन्वाधिः” to be distinguished from a famous species of bailment of that name. *Vide Prajāpati*—

“धनी धनेन तेनैव परमाधिं नयेद् यदि ।

कृत्वा तदाधिलिखितं पूर्वं वास्य समर्पयेत् ॥”

Sometimes again, good character and reputation or religious merit is pledged; in such a case, if the debtor taking advantage delays, or fraudulently tries to avoid, or where, greater debt is advanced for a small-value pledge or where small debt is advanced for a very valuable pledge and the party enjoying superior privilege makes any default wilfully, the king compels the defaulter to restore the property with interest. The passage that sets out this and is noticed by all the commentators—is II, 62, Yājñavalkya—

“चरित्रबन्धककृतं स-वृद्ध्या दापयेद् धनम् ।” एकस्तावत् अर्थः—
“स्वच्छाश्रयाधमर्णाङ्गुलीयकाद्यल्पमूल्यं बन्धकम् अभूत् तत् चरित्रबन्धकम् ; अन्यस्तु—चरित्रम् इष्टापूर्त्तादिको धर्मः, स एव बन्धकम् आधिः ।” “स्वल्पमूल्य-धनं सुकृतं वा गृहीत्वा द्वैगुणे जाते अपि न वर्धते, मयि अवस्थिते नाशक्यं विक्रयं कर्तुम् इति बुद्ध्या विलम्बम् आलम्बते यदा तदा राज्ञा दाप्यः ।”

—स्मृतिचन्द्रिका ।

Now, we come to the topic of the manner of dealing with the pledge by the pledgee or the *duties of the pledgee and the pledgor before the payment of the debt.*

The leading text in this respect as regards duty of pledgee is that of Hārīta—”

“बन्धं यथा स्थापितं स्यात्तथैव परिपालयेत् ।

अन्यथा नश्यते लाभो मूलं वा तद्व्यतिक्रमात् ॥”

The duty of the pledgee is to fulfil to the letter all the stipulations that are entered into, as regards the manner of holding the pledge by him. If he goes against the stipulations, the result is, that he forfeits the interest and sometimes even the principal also.

“यथा येन प्रकारेण गोप्यत्वेन भोक्तृत्वेन स्थापितम् आधिं तथैव गोप्यं गोप्यत्वेन, भोग्यं भोग्यत्वेनैव पालयेत् । अन्यथा वैपरीत्ये तस्य समयस्य व्यतिक्रमात् लाभो वृद्धिः मूलं द्रव्यं वा नश्यति इत्यर्थः ।”

—वीरमित्रोदयः ।

This passage of Hārīta is made clear by other Smṛti passages. The gist of all of them is, that the pledgee may allow, through his own neglect, the pledge in his custody to perish or to deteriorate, or it may be, he may destroy it deliberately or wilfully misappropriate it or convert it to his own use, contrary to stipulations, and in each of these cases, different penalties and forfeitures are provided. The pledge, when it is to be merely held, may be enjoyed,—in that case, the pledgee forfeiting interest. Manu says—

“न त्वेवाधौ सोपकारे कौसीदीं वृद्धिमाप्नुयात् ।”

But in Gopyādhi, Vṛddhi is allowed. The question arises—whether the holder of a Gopyādhi, using its usufruct, forfeits his interest, in proportion to the amount consumed. The answer is affirmative, if such consuming is without force. In forcible

seizure, the entire—and not proportionate—interest is forfeited—hence Smṛti Candrikā remarks thus on Manu—

“न भोक्तव्यो बलादाधिभुञ्जानो वृद्धिमुत्सृजेत् ।” “भोग-प्रतिषेधं कुर्वन्तम्
आधातारम् आक्रम्य गोप्याधिं भुञ्जानस्य अत्यन्तापराधित्वात् स्वल्पभोगे एव
सर्ववृद्धिनाश इत्यर्थः ।”

If, on the other hand, it is surreptitious consumption or one, which is not open, deliberate and forcible,—the loss of interest is proportionate to consumption. The forfeiture of principal as spoken to by Harita is pointed out to be due to forcible seizure of a great portion of the pledge—

(a) “सर्वमूलनाशस्तु नास्मिन् विषये विकल्प्यते । अत्यन्ताधिकहानित्वात् ।
तेन मूलं वा इति हारीतवचनम् सर्वमूलनाशरूपपदान्तराभिधायकम् बलात्कार-
कृतमहाभोगविषयम् इति मन्तव्यम् ।”

—Smṛti-Candrikā

(b) “अधमर्णेन भोगो न कर्तव्य इति निषिध्यमानः तद्वचनम् उल्लङ्घ्य
भोगकर्तुः अल्पभोगेऽपि सर्ववृद्धिनाश इत्यर्थः ।”

—Vīramitrodaya

Manu's passage that deals with forfeiture of proportionate interest in surreptitious consumptions is in these words :—

“यः स्वामिनाननुज्ञातमाधिं भुङ्क्तेऽविचक्षणः ।

तेनार्धवृद्धिर्भोक्तव्या तस्य भोगस्य (भागस्य) निष्कृतिः ॥”

The commentators find difficulty in explaining the phrase “अर्धवृद्धिः.” They all take “अर्ध” as symbolic of any proportionate share. The phrase “तस्य भोगस्य निष्कृतिः” explains it. Half share, if taken literally cannot pay off entire liability where it is more than half—besides, it will come in conflict, if taken literally, with passages, dealing with consumption of a great portion with or without force.

“अर्धग्रहणम् अनुज्ञाताधिभोगानुसारेण कल्पितस्य वृद्धिभोगस्य उप-
लक्षणाद्यर्थम् । अन्यथा महाभोगस्य अर्धविसर्जनेन निष्कृतिः असम्भवात् तस्य

भोगस्य निष्कृतिः इति वाक्यशेषविरोधः स्यात् । अथ विरोधपरिहारार्थम् अल्पभोगविषयम् इदम् कुतो न भवति ? तथा सति, अननुज्ञातमहाभोगविषये लाभहानिः अनेन अनुज्ञा स्यात् । तच्च अनेन अनुज्ञे अपि गोप्याधिभोगे न वृद्धिः इति याज्ञवल्क्यवचनम् एव अत्र लाभहानिविधायकं भवितव्यम् । न भविष्यति, तस्य बलात्कृताल्पभोगविषयत्वात्, तस्मात् अर्धग्रहणोपलक्षणम् एव युक्तम् ।”

—Vīramitrodaya

This is found, word for word, in Smṛti Candrikā also. The passage of Yājñavalkya, on this point—is thought to refer to use by forcible seizure, which causes forfeiture of entire interest, even though a small portion is consumed.

Hence, Smṛti-Candrikā takes it to be of the same import as the passage of Manu—

“गोप्याधिभोगे न वृद्धिः सोपकारे च हापिते ।

नष्टो देयो विनष्टश्च देवराजकृतादृते ॥” (भोगे बलात् इति शेषः)

Smṛti-Candrikā raises a question,—what does Yājñavalkya mean by “सोपकारे च हापिते” ?

The phrase refers to a Bhogyādhi of a kind, whose enjoyment consists in putting it to use, such as a pair of bullocks, which in course of excessive or violent or oppressive use may be rendered unfit or useless—“सोपकारे च बलीवर्दादौ हापिते सम्यक् व्यवहाराद्धमतां नीते धनिकदोषेण ।”

This is a distinct loss to the pledgor and as a result, the thing's substitute in value is to be restored subject to certain exceptions ; and besides, interest is forfeited. But Smṛti Candrikā questions the relevancy of loss of interest in such a case ; it notes that this passage refers to a season of extreme distress, when the pledgee may use contrary to stipulations of the pledge, but if in course of use it deteriorates (नष्टः) or is destroyed (विनष्टः) excepting vis major,—he is not excused, but, not only must restore the object intact or its value, but also, must be liable for the profits he has used. This is [what is meant by the word “वृद्धिः” in “सोपकारे च हापिते.” Manu's passage

“न त्वेवाधौ सोपकारे कौसीदीं वृद्धिमाप्नुयात् ।” on the other hand, simply emphasises the point, that in no case, in case of a Bhogyādhi, interest may be demanded, even where Bhogyādhi is not used by the pledgee. We quote Smṛti-Candrikā :—

“यत्र आधाता आधेः अभोगात् वृद्धिदानमपि आपदि अभ्युपगच्छति, तत्र प्राप्ता वृद्धिः “सोपकारे च ह्रापिते” इत्यनेन प्रतिषिध्यते ।.....न त्वेवाधौ इति मनुवचनस्य भोग्याधौ कदाचित् अभोगे अस्तु वृद्धिः इति शंकावृद्धासार्थत्वात् ।”

Hence the conclusion follows that everywhere the pledge being used by the pledgee, contrary to terms of engagement, the interest is always forfeited and this is true of both Gopyādhi and Bhogyādhi. “तस्मात् अन्यथापालिते सर्वत्र आधौ लाभनाशः न गोप्यमात्रे इति सिद्धम् ।”
—Smṛti-Candrikā.

To sum up :—the forcible seizure, be it of small portion or of great portion, makes forfeiture of entire interest ; and in case of forcible misappropriation of a great portion of the pledge, the principal also may be lost, according to Smṛti-Candrikā, but according to some others, the principal is forfeited only when the pledge is totally destroyed ; where the seizure is not forcible but surreptitious without the permission of the pledgor, contrary to stipulations, the forfeiture of interest only follows according to proportion of consumption.

Further in case of a Bhogyādhi if the pledgee wilfully ceases to enjoy its usufruct, it is not the fault of the pledgor that he does so and hence he is not liable to pay interest, because the pledgee has ceased to draw upon the usufruct.

“न च भोग्याधौ वृद्धभावात् लाभनाशपक्षस्यापि अनवतार इति वाच्यम् । भोगस्यापि लाभत्वात् । न च तत्र अभोगे वृद्धिलाभो भविष्यति इति वाच्यम्, यत्र आह मनुः—न त्वेवाधौ सोपकारे कौसीदीं वृद्धिम् आप्नुयात् इति । एतत् उक्तं भवति—“आधिभोगमात्रार्थं प्रयुक्तधनस्य आत्मापराधादितो भोगालाभे लाभहानिः एव, न पुनः अंगोक्तवृद्धिसिद्धिः इति । आधात्वादपराधात् अभोगे तु.

भुञ्जानात् अधमर्णात् वा भोगलाभ एव ग्राह्यो धनिना न तु वृद्धिः इति मन्तव्यम् ।”
—Smṛti-Candrikā.

But in such a case, it may happen that the pledgor himself is in fault that in case of a Bhogyādhi, the pledgee cannot participate in profits. But still Manu's dictum must be respected, no interest can be charged even in such a case, but only the amount of consumption, which the pledgee would have taken but for the fault of the pledgor. We now pass on to the matter as to *what would happen, in adjustment of the debt, if the pledge deteriorates or is destroyed through the fault of the pledgee.*

For so far we have only spoken of wrongful consumption. The following texts bear upon this point :—

- (a) “ग्रहोददोषान्नष्टश्चेद् बन्धो हेमादिको भवेत् ।
ऋणं स-लाभं संशोध्य तन्मूल्यं दापयेद् धनी ॥” (बृहस्पतिः)
- (b) “प्रमादाद् धनिनस्तद्वदाधौ विकृतिमागते ।
विनष्टे मूलनाशः स्याद् देवराजकृतादृते ॥” (नारदः)
- (c) “भुङ्क्ते वासारतां प्राप्ते मूलहानिः प्रजायते ।
बहुमूल्यं यत्र नष्टमृणिकं तत्र तोषयेत् ॥” (बृहस्पतिः)
- (d) “नष्टो देवो विनष्टश्च देवराजकृतादृते ॥” (याज्ञवल्क्यः)
- (e) “मूल्येन तोषयेच्चैनमाधिस्तेनोऽन्यथा भवेत् ॥” (मनुः)
- (f) “दैवराजोपघातमृते विनष्टमाधिसुत्तमर्णो दद्यात् ॥” (विष्णुः)

We have already found that in the opinion of some, such as Smṛti-Candrikā, forcible or tortious seizure and enjoyment of a substantial portion of the pledge forfeits even the principal and to such a case, they would apply the alternative of Hārīta—the loss of principal, in case of breach of stipulations,—alternative to the loss of interest, “मूलं वा तद्गतिक्रमात् ।”

But the preponderance of authority as illustrated by the above texts points out that excepting *Vis Major*, where the pledgee has no hand, in every case, he is responsible for

destruction or deterioration of the pledge in his custody and he loses the principal, in consequence. But if he does not want to forego the principal, he must make good the pledge deteriorated or lost, before taking back his debt with interest, if already interest is not forfeited by laches or tortious conduct on his part, in particular cases that are noticed above.

Vivāda-Ratnākara notices a different reading of Manu's passage "(मूल्येन तोषयेद्) वैनम्" for "चैनम्"—it takes it as an alternative when interest, the pledgee does not give up. He agrees with others that this refers to forcible seizure, but while others would take it referring to cases where both the principal and interest are liable to be lost, it would take the line, referring to the loss of interest only, where the loss of principal is not contemplated. In other words, others would take it as referring to the case, where the pledge is lost or is worsened. We quote the rival views :—“यदा तु वृद्धिं न त्यजति तदा यावत् तेन भुक्तं तावद्भोग-प्रत्याकलनया मूल्येन एनम् आधातारम् भोक्ता तोषयेत् ।”

—Vivāda-Ratnākara.

“अ-लाभ-ऋणापगतावशिष्टांशेन इत्यर्थः ।”

—Vīramitrodaya.

As Vīramitrodaya says, where the thing is completely destroyed or deteriorates, it must be made good minus the legitimate dues of the pledgor. However, all are agreed, that apart from the particular case of forfeiture of interest, forfeiture of principal is always the result in case of wanton destruction or deterioration by the pledgee ; in short either the principal with interest due must be forfeited or, if demanded, the pledge must be made good. But where the pledge is most valuable, far exceeding the dues of the pledgee, the pledgee is liable to make good the balance on clearance of mutual accounts—

“बहुमूल्याधिनाशे तु अलाभर्णात् उपरि आधिमूल्यम् आधात्रे देयम् । तथा च स एव—“बहुमूल्यो यत्र नष्टम् ऋणिकं तत्र तोषयेत् ।”

Vīramitrodaya.

Manu's passage is also here quoted and supposed as representing the rival view of Vivāda-Ratnākara "मूख्येन तोषये-
च्चैनमाधिस्तेनोऽन्यथा भवेत् ।" But in such a case of destruction
or deterioration of a very valuable pledge, where the pledgee
must be liable to pay to the pledgor, the balance of the pledge—
where thus, the alternative of foregoing his principal is denied
him, and he fails to make it good,—the pledgor can have his
balance realised from the surety of the creditor, who guarantees
due fulfilment of the promise of the creditor to return the pledge,
when the debt is duly paid. In this connection, the commenta-
tors quote the passage of Hārīta :—"खादको वित्तहीनश्चेद्
लग्नको वित्तवान् यदि । मूल्यं तस्य भवेद् देयम् न वृद्धिं दातुमर्हति ।" If the
enjoyer of the pledge be devoid of assets and fails to pay off the
balance, he is a debtor for the balance to the pledgor, but the
pledgor here is not without remedy ; for in such a case, there is a
third person, guarantor, for due return of the most valuable
pledge, and the pledgor, as a creditor, if he finds this third person
to be of sufficient assets, he can realise the debt minus the interest
from him. The reason for non-liability for interest—of this
third person—is the fact that there is no specially stipulated
interest in case of debts advanced on strength of mutual affection
and relationship between the parties and obligations for pledge—
"आधीकृतस्य धनस्य प्रीतिदत्तधनस्य इव कारितवृद्ध्यसम्भवात् इति अभिप्रायः" ।

Smṛti-Candrikā.

There is another type of cases, to be noted in this connec-
tion, *where the pledgee stands related as debtor to the pledgor*,
namely where, without special engagement and not taking
permission in such a case, of the pledgor, the pledgee puts to
hire or himself uses pledges for work and use—such as female
slaves, a pair of draught bullocks, etc. ; here the pledgee must
restore the profits he has derived from such use and further
even in a case, where he is allowed to use them, he must use
them most humanely ; otherwise, if he treats them violently or
cruelly or in any way oppresses them in course of use, or

causes them to do anything against their will, approval or capability, he gets a penalty of first Sahasa (equivalent to 250 paṇas). Besides, there is every danger of the pledge getting disabled or deteriorated in such instances in course of violent use so that in addition to this penalty, he may lose his principal, in accordance with the general rule noticed above. The profits, as noticed above, thus appropriated are the fees or remuneration that these objects bring, on being let on hire.

We quote the relevant passages with remarks, from Smṛti-Candrikā :—

(A) “अकाममननुज्ञातमाधिं यः कर्म कारयेत् ।

भोक्ता कर्मफलं दाप्यः वृद्धिं वा लभते न सः ॥” (कात्यायनः)

Here, the remark of Smṛti-Candrikā, as in others is—

“अन्यथापालनं क्वचित् अमूलधननाशेन सह लाभनाशस्य विकल्पमाह कात्यायनः ।”

The profits which the pledgee is under an obligation to restore, can neither be called capital nor principal, nor does it represent interest, therefore it is described as “अमूलधनम्”. Further, it is regarded as an alternative, namely a debt to be paid, if the interest is not thought to be abandoned. What is meant by the word कर्मफलम् or profits for use? It is the remuneration for work in case of female slaves and fee for hire in case of carriages, etc., not indeed the fruits of work, such as rice-grains threshed out by the female slaves “कर्मफलम् दास्याद्याधौ वेतनम्, शकटाद्याधौ भाटकादिकम्, न तु दास्यादिहताववातादिकर्मणः फलम् तण्डुलादिकम् ।”

Smṛti-Candrikā.

(B) “यस्त्वाधिं कर्म कुर्वाणं वाचा दण्डेन कर्मभिः ।

पीडयेद् भर्तृस्येवैव प्राप्नुयात् पूर्वसाहसम् ॥” (कात्यायनः)

“अकुर्वति, पीडनभर्तृसनकारिणः अपि न दण्डः, कुर्वाणम् इति अभिधानात् ।”

(स्मृतिचन्द्रिका ।)

This penalty passage indicates, by the phrase कर्म कुर्वाणम्, when there is no work to be done, or when the work is not

actually being done, the penalty does not attach, inspite of harsh treatment, though of course, pledge being disabled or deteriorated, there is risk of loss of principal or full restoration as an alternative according to the general rule :

“प्रमादाद् धनिनस्तद्वदाधौ विकृतिमागते ।

विनष्टे भूलनाशः स्यात् देवराजकृतादृते ॥”

It may be repeated here, that not only for consumption, but for negligent or malignant use the pledge may run to waste.

“भोगव्यतिरिक्तदोषाद् विकृतिमागते अपि आधौ पूर्ववत् कृत्वा अर्पणम् लाभहानि वा ।”

Smṛti-Candrikā says that in Gopyādhi, the alternatives are not allowed, but both follow—the loss of interest as well as restoration or loss of principal. This is not a peculiar view, as there is no question of loss of interest in case of Bhogyādhi.

We have spoken of full restoration as an alternative to loss of principal in case of deterioration, but sometimes, that concession even is not allowed, where the pledge remaining undelivered, it is seized by force and enjoyed against will, even slight enjoyment entailing loss of principal in such a case, besides the penalty of first Sahasa, namely 250 panas. This, Kātyāyana declares :—

“बलादकामं यत्राधिमनिसृष्टम्वेशयेत् ।

प्राप्नुयात् साहसं पूर्वमाधाता चाधिमाप्नुयात् ॥”

From term बलात् it appears—that where it is fraudulent use, the penalty does not attach, and besides, the loss of principal, as an alternative to restoration, follows according to the proportion of consumption, and if the pledge is just sufficient to meet the full liability of the pledge, there is no balance left in favour of either side according to this very rule of proportion.

This is emphasised by Hārīta—

“तत्-समो द्विगुणो वाधिर्धनिकस्य समर्पितः ।

आधौ नष्टे धनं नष्टं धनिकस्याधिरेव च ॥”

What is meant by—"धनिकस्य आधिः नष्टः ?"

Smṛti-Candrikā says :—"धनिकस्य आधिनाशः आध्यन्तरालाभात् ।"

The creditor loses the right of demanding another security as the security has perished through his fault.

This leads us to the subject of *deficiency of security, in the hands of the pledgee, where it has deteriorated not through the fault of pledgee, but through some agencies over which he has no control*. The standard of care, that is demanded of the pledgee is akin to that demanded of the bailee—"न्यासवत् परिपाल्यो-
ऽसौ वृद्धिर्नश्यति ह्रापिते" and further, just as in the case of a bailment, stipulations must be strictly observed, that are made with regard to manner of holding by the pledgee—"बन्धं यथा स्थापितं स्यात् तथैव परिपालयेत्." Smṛti-Candrikā puts this, very concisely —

"आधिग्रहणात् ऊर्ध्वम् आधिः नाशङ्गासविकारासारत्वादयः यथा न सन्ति
तथा धनी प्रत्यपेक्ष्यन्तम् प्रयत्नेन पालयेत् इत्यर्थः ।"

The pledgee must see, while the pledge is in his custody, that it does not deteriorate through his fault—it is not changed in character, it does not diminish in quantity, it is not destroyed, it does not become worthless. it is not removed to the hands of third persons, etc. But if this is all right, if the pledgee proves faithful to his charge, he is not else responsible for the destruction or deterioration of the pledge and the pledgor is bound to make good the deficiency or supply another, equal in value. The cases, where pledgee is not responsible are described as act of God or King :—

(a) "देवराजोपघाते तु न दोषो धनिनः क्वचित् ।" (हारीतः)

(b) "आधीकृतं तु यत् किञ्चिद् विनष्टं देवराजतः ।

तत्रार्थं सोदयं दाप्यो धनिनामधमर्णकः ॥" (कात्यायनः)

(c) "देवराजोपघाते तु न दोषो धनिनः क्वचित् ।

ऋणं दाप्यसु तन्नाशे बन्धं वान्यमृणी तदा ॥" (व्यासः)

(d) "रक्ष्यमाणोऽपि यत्राधिः कालेनेयादसारताम् ।

आधिरन्योऽथवा कार्यो देयं वा धनिनि धनम् ॥" (नारदः)

All these passages emphasise that either the debt must be paid in full or the deficiency must be made up or another good pledge must be supplied. The making up of deficiency is noticed by the following passage of Harita :—

“आधेः समधिकं द्रव्यं गृहीतं ग्राहकेण तु ।

अधिकं तव दास्यामि तद्द्वयाङ्गनिकस्य सः ॥”

That another good pledge is to be given is laid down thus by Kātyāyana :—

“न चेद्वनिकदोषेण निष्पतेद् विक्रीयेत वा ।

आधिमन्यं स दाप्यः स्यादृणान्मुचेत नणिकः ॥

Both the alternatives of paying down the debt and supplying another pledge are noticed by the following anonymous Smṛti passage quoted by all :—

“स्तीतसापहते क्षेत्रे राज्ञा चैवापहारिते ।

आधिरन्योऽधिकर्त्तव्यो देयं वा धनिने धनम् ॥”

These passages indicate that in no case, the pledge was allowed to fall short of the sum advanced; if it fell short, it came under the category of “असार” and if the creditor had no hand in it, he could at once demand the repayment of the debt, which might be realised from other properties of the pledgor, which either must satisfy the debt or be thrown into the custody of the pledgee, to take the place of the original pledge. Thus, in modern terms of the mortgage law, it can be said that foreclosure was always applied save in two cases, where the debtor, in absence of creditor, wished to pay or creditor refused to accept as well as where, in absence of debtor, creditor wished to realise his debt, and return the pledge. In these cases, as noticed before, sale was allowed. There was another case, where the security was called “चरित्रवन्धकम्” as noticed before with its two meanings, where the debt could be satisfied by sale of other properties of the debtor. Further it may be mentioned again

in this connection that re-pledging was practised, by the creditor as an alternative to sale, in case he wished to realise his debt in absence of debtor, but in such a case unless specially stipulated, the repledgee was not obliged to pay interest. While pursuing this topic we may say that Dr. Ghose's remark is not warranted, at p. 44. of his Lecture II (fourth edition) that "personal liability of the pledgor in the event of a deficiency is not expressly noticed in the Hindu Law." That liability in every case as in the passages referred to, is emphasised, as alternative to supplying a fresh security. Further, we have seen, that sales were allowed only in cases where either the creditor or debtor was absent, and deficiency was never contemplated in such sales, for pledge was never allowed to fall short of the debt's value at any particular point. And, where actually there was deficiency in sale proceeds—only one instance is noted in respect to that—it is called "चरितबन्धकम्," where according to one meaning, it was not secured debt at all, while according to another meaning, valuable pledge being advanced on a small debt, there was no question of deficiency, and when considerable money was advanced on a small security, the period expiring, the debtor was made to pay double—"द्विगुणं प्रतिदापयेत् ।" So, really there is no omission on this point, as Dr. Ghose would suppose. Further we should say that pledges were always considered—in case of full bhogya, to supply both interest and principal and in case of partial, where it is equal to full interest only, interest being appropriated, principal being paid, pledge was returnable. Where again, the pledge was considered of more value than the principal and the interest, simply the pledge was to be returned, without receiving any payment by creditor.

So, Brhaspati, premising—ऋणो बन्धमवाप्नुयात् ।"—

says—

“फलभोग्यं पूर्णकालं दत्त्वा द्रव्यं च सामकम् ।

यदि प्रकर्षितं तत् स्यात्तदा न धनभाग् धनी ॥

ऋणो च न लभेद्वन्धं परस्परमतं विना ॥”

Mitākṣarā comments :—“बन्धश्च द्विविधः—समुद्दिमूनापाकरणार्थो वृद्धिमात्रापाकरणार्थश्च । तत्र समुद्दिकमूलकं तम् पूर्णकालं दत्त्वा ऋणी बन्धम् अवाप्नुयात् । वृद्धिमात्रार्थं च, सामकम् मूलं दत्त्वा आप्रयादृणो । यदि वृद्धेः अपि अधिककृतं स्यात् तदा ऋणी मूलम् अदत्त्वा एव प्राप्नुयात् ।”

This can be varied by mutual stipulations. We now close this point with the remark that the act of God and king *दैवराजकृतम्* is liberally interpreted by the commentators, which exculpates the pledgee. The view is that it is only symbolic of any cause over which the pledgee has no control “असमाधेयम्” ।

“देवादिग्रहणस्य धनिकदोषविहीननिमित्तपरत्वेन कृतत्वात् ।”

—Smṛti-Candrikā.

We now bring our subject of pledges to a close with the remark that Kātyāyana prescribes severe penalty, to a dishonest pledgee, who by fabricating false document of pledge, enjoys property of another, and further conversely pledgor, also taking advantage of any kind of liability of the pledgee's surety in a most oppressive and unrelenting manner realises it—also deserves severe penalty along with confiscation of property he has realised, to which he is not entitled.

“आधिं दुष्टेन लेखेन भुङ्क्ते यस्मिन्कावनी ।

तृपो दमं दापयित्वा आधिलेख्यं विनाशयेत् ॥” (कात्यायनः)

“द्विगुणं त्रिगुणं वापि यः साधयति लग्नकम् ।

राजगामि तु तद् द्रव्यम् साधको दण्डम् अर्हति ॥” (कात्यायनः)

CHAPTER II.

BAILMENT.

Definition, Classification and Characteristics of Each Class.—

Of the eighteen topics of Hindu Jurisprudence, the Law of Bailment is second in order, called “निक्षेपः.” It is defined to be a transaction between two persons, in which one, on the strength of perfect confidence and feeling of security, delivers one’s own goods to the other for safe keeping, to abide the time, when the kept will be wanted back by the owner. Hence Nārada says :—

“खं द्रव्यं यत्र विश्वासान्निक्षेपव्यविशंकितः ।
निक्षेपो नाम तत् प्रोक्तं व्यवहारपदं बुधैः ॥”

Various kinds of bailment are enumerated and recognised by the authorities and all are governed by a set of common principles of law, gathered together under the heading “निक्षेपः.”

The principal kinds of bailment that are noticed by all the authorities are—(a) “उपनिधिः,” (b) “प्रतिन्यासः”; (c) “याचितकः”; (d) “अन्वाहितः”; (e) “न्यासः”; (f) “शिल्पिन्यासः” or as some say “वैश्यवृत्त्यर्पितः” and (g) “निक्षेपः.”

Of these, “उपनिधिः” is delivery of the deposit, in a sealed cover, without letting the depositee know, its nature, extent or identity. So, Brhaspati declares :—

“अनाख्यातं व्यवहितमसंख्यातमदर्शितम् ।

मुद्रांकितञ्च यद् द्रव्यं तदौपनिधिकं स्मृतम् ॥”

“न्यासः” is removal to another’s house, for safe keeping, treasures or any valuables for protection against king’s wrath, robbers and the like or defrauding of agnates, but without

knowledge of the house-owner, delivering the object to a member of the house, asking to deliver to the owner. Hence Vyāsa and Brhaspati :—

“राजचोरादिकभयाद् दायदानां च वचनात् ।
स्थाप्यतेऽन्यस्य यद् द्रव्यं न्यासः स परिकीर्तितः ॥”

The reading in *Vīramitrodaya* is “अन्यगृहे द्रव्यम्” for “अन्यस्य यद् द्रव्यम्” found in *Smṛti-Candrikā* and *Vivāda-Ratnākara*.

The term “अन्वाहितः” is applied to an article, which one delivers to another, representing to the latter, that it was left by its owner to the custody of the former, who requests the latter person to deliver the article in trust, in the same person, in exactly the same manner, in which it was instructed to be delivered. Hence, *Asahāya*, the commentator of *Nārada*, in commenting on the passage No. 14, under the heading “*Nikṣepa*,” explains the word by simply analysing it—“अनुपस्थात् आहितम् इति ।” Hence *Kātyāyana* declares

“अनुमार्गेण कार्येष्वन्यस्मिन् वचनान्वम ।
दद्यास्त्वमिति यो दत्तः स इहान्वाधिरुच्यते ॥”

Vivāda-Ratnākara notices a different reading “अत्र मार्गेण” for “अनुमार्गेण” and attributes it to *Halāyudha*, but the substance of the meaning is not affected thereby. “हलायुधेन तु अत्र मार्गेण इति पठित्वा व्याख्यातम्—अत्र, कार्येषु एतेषु, मार्गेण याचनेन अमुस्मिन् पुरुषे त्वं दद्याः इति परिभाष्य यत् समर्पितम् तत् अन्वाधिः उच्यते ।” *Vīramitrodaya* says—“अन्वाहितम् स्वस्मिन् स्थितम् परधनम् अन्यहस्ते कृतम् ।” Or as *Smṛti-Candrikā* says—“अन्यान्तिकस्थतया कृतम् ।” *Vyavahāra-Mayūkha*—“अन्वाहितम् अमुकेन मयि स्थापितम्, त्वया च तस्मै देयम् इति पुरुषान्तरहस्ते समर्पितम् ।” The term “प्रतिन्यासः” is explained in *Vīramitrodaya* as—“मिथःकार्यापेक्षया त्वदीयमेतत् मया स्थाप्यते, मदीयमेतत् त्वया स्थापनीयम् इति ।” When two persons mutually become deposites for their respective articles, each such article is called “प्रतिन्यासः”

Mitākṣarā also “परस्परप्रयोजनापेक्षायाम् त्वया इदं मदीयम् रक्षणीयम्, मया इदं त्वदीयं रक्ष्यते इति न्यासस्य ग्रहणम् ।”

It may also mean re-bailing by the bailee to another, according to, for instance, Vyavahāra-Mayūkha and Asahāya on Nārada. Vivāda-Ratnākara and Vīramitrodaya represent the other view—mutual bailing. Asahāya on Nārada—passage No. 14, heading Nikṣepa, says “प्रतिन्यासस्तु कस्यापि हस्ते निक्षिपति द्रव्यम्, सोऽपि कार्यकालापेक्षया यत् अन्यस्य हस्ते निक्षिपति, सः प्रतिन्यासः । प्रतिन्यासः परस्परन्यासः इति विवादरत्नाकरे । स्वामिना यत्र निक्षिप्तम् तेनाप्यन्यत्र निक्षिप्तम्”—व्यवहारमयूखः ।

The meaning—mutual bailing—seems to be preferable, as there will be otherwise overlapping between “अन्वाहितः” and “प्रतिन्यासः”.

The term “याचितकः” is the article that comes into the custody of a person through begging it from the owner, who grants the prayer,—to be used on special needs or occasions and when the special need comes to an end, the thing is to be returned. Such is generally the valuable garment or ornament or jewel, etc., to be worn on specific occasions. Hence, Smṛti Candrikā—“उत्सवादिषु परकीयम् अलंकाराद्यर्थम् याचित्वा स्वसमोपम् आनोतम् ।”

Kātyāyana reads the kind “वैश्ववृत्त्यर्पितः” for “शिल्पिन्यासः” or “शिल्पिहस्तगतः,” when extending the principles of “निक्षेपः” to these other kinds. This is cited in Vivāda-Ratnākara—“ऋयः प्रेषितनिक्षिप्तो बन्धान्वाहितयानितम् । वैश्ववृत्त्यर्पितश्चैव सोऽर्थस्तूपनिधिः स्मृतः इति ।” The “अतिदेशः” passage in other authorities is materially different ; for instance, Nārada (14)—

“एष एव विधिर्दृष्टो याचितान्वाहितादिषु ।
शिल्पिष्वुपनिधौ न्यासे प्रतिन्यासे तथैव च ॥
प्रतिगृह्णाति यो दण्डं यश्च सप्रधानं नरः ।
तथाप्येष विधिर्दृष्टः षड्भेदे निधयः स्मृताः ॥”

Brhaspati and others read—

“अन्वाहिते याचितके शिल्पिन्यासे सवन्धके ।

एष एवोदितो धर्मस्तथा च शरणागते ॥”

which Smṛti-Candrikā for instance cites—with the remark—

“बृहस्पत्यादिनापि अनुपदिष्टधर्मकेषु एव अन्वाहितादिषु अतिदिष्टम् इति ।”

There is a variant reading “प्रतिगृह्णाति पोगण्डम्” for “प्रतिगृह्णाति यो दण्डम्” in Nārada ; The author of Vivāda-Ratnākara explains thus, the phrase “प्रतिगृह्णाति यो दण्डम्” :— “यो दण्डम् गृह्णाति तस्य पुरुषस्य कृतदण्डे प्रमाणाभावात् एष निक्षेपविधिः । “It is thus a bail offered for security of punishment. At the same time, the author remarks that Halāyudha reads—“प्रतिगृह्णाति पोगण्डम्”—i.e., to say, one who undertakes guardianship of a minor, with great wealth. This reading is also noticed in Dr. Jolly’s text of Nārada. Vivāda-Ratnākara—“पोगण्डे बाले स-प्रधने प्रकृष्टधनसहिते निक्षेपुः सकाशात् निक्षेपनयेन गृहीते एष एव विधिर्दृष्टः इति”—citing from Halāyudha.

Now coming to the term “वैश्यवृत्त्यर्पितः” it is explained as “वाणिज्यार्थम् समर्पितः”—delivered in trust for the purpose of trade, in Vivāda-Ratnākara. It may be, for instance, a cargo boat, a house to locate a shop in, or even loans of capital. If it is to be taken as a substitute for “शिल्पिन्यासः” of other texts, it means, materials delivered into the hands of artisans, for welding them into finished articles. Now, the crucial word is “वैश्यवृत्तिः” :—and the word means—profession or calling of a Vaiśya, and the word, “वैश्यवृत्त्यर्पितः” means, delivered article for the purpose of following, with its help, the profession of a Vaiśya. The profession of a Vaiśya is taken to be trade in Vivāda-Ratnākara—“वाणिज्यम्.” It may as well mean the calling of all sorts of artisans, goldsmiths, etc. But there is a great difficulty in making thus the word “वैश्यवृत्त्यर्पितः” a substitute for “शिल्पिन्यासः”, as within this latter term are included, the clothes given to washermen for washing. The Vaiśyas, it is to

be noticed, are one of the three pure higher castes, wearing the sacred thread and called hence, the twice-born, entitled to read the Vedas. Viṣṇu Smṛti, for instance reads in its second chapter, the traditional Vṛtti of Vaiśya—“क्षत्रि-गोरक्षा-वाणिज्य-कुसौद-योनि-पोषणानि” and the Vṛtti of Sūdra as—“सर्वशिल्पानि”. Hence, “वैश्यवृत्त्यर्पितः” is a term which is distinct from “शिल्पिन्यासः”.

Another peculiar thing to be noticed in the “अतिदेशः” passages is that “बन्धः” or pledge for loans is included, for instance, in Kātyāyana, “बन्धान्वाहितयाचितम्”, in Bṛhaspati, “शिल्पिन्यासे स-बन्धके”. Nārada however does not mention it, nor Yājñavalkya—“याचितान्वाहितन्यासनिक्षेपादिष्वयं विधिः”.

Vivāda-Ratnākara, when explaining Kātyāyana, takes “बन्धः” to mean “आधिः” and while explaining the word “स-बन्धके” in Bṛhaspati says—“स-बन्धके बन्धकसहिते, तेन बन्धकेऽपि रहो दत्ते अतिदेशो लभ्यते”. Hence, the pledge, which is taken to be included in these passages, is that given in secret (रहोदत्तः). Thus it is that this kind of pledge partakes of the nature of Nikṣepa, where confidence is the only security.

Another kind of “बन्धः”, which can be classed under the heading “निक्षेपः” is noticed by the author of Smṛti-Candrikā, when he dwells upon the full requisites of a loan transaction, citing a passage of Bṛhaspati, which distinguishes between “आधिः” and “बन्धः”—

“परिपूर्णं गृहीत्वाधिं बन्धं वा साधुलग्नकम् ।

लेख्यारूढं साक्षिमतद् वा ऋणं दद्याद् धनो सदा ॥”

This passage comes in conflict with another passage of Bṛhaspati, “आधिर्बन्धः समाख्यातः स च प्रोक्तश्चतुर्विधः”—where both the words are synonymous, meaning pledge. He cites Nārada, citing that peculiar meaning of the word “बन्धः” which can make it fit to be classed under the head “निक्षेपः”.—“निक्षेपो मितहस्तस्यो बन्धो विश्वासकः स्मृतः ।” He comments—“उत्तमर्णधमर्णयोः यः सखा तस्य पार्श्वे निक्षिप्तम् एव अधमर्णधनम् उत्तमर्णविश्वासाद्यर्थम्

अधमर्णेन उपदिष्टम् बन्ध इति गीयते इत्यर्थः ।” It is placing the object of pledge in the hands of a common friend, as a deposit for benefit of both. In other words—he is called “आधिपालः, आधिप्रत्यर्पणप्रतिभूः,” etc.

In this matter, Asahāya on Nārada, passage No. 1, defining the legal topic “निक्षेपः” is particularly instructive. He lays finger on the independent or peculiar characteristic of this legal topic. He says : “तत्र साक्षि-लिखित-ग्रहणविरहितम् कोऽपि वराटकमपि न ददाति, यत्र पुनः विश्वासात् निःशंकः पुरुषो भवति, तत्र साक्षि-लिखित-ग्रहण-वर्जितम् एव सुवर्ण-सहस्रादिकम् अपि निक्षेपति ।”

In this world, no one advances even a *cowrie*, in absence of witnesses or written instruments. But where confidence arises, man becomes fearless of loss and can advance even thousands of gold coins, in absence of witnesses or written instruments ; and this confidence is the life and soul of all transactions, classed under “निक्षेपः.”

Now, the twofold meaning of the word “निक्षेपः” is to be mentioned. One meaning is the name of the legal topic, the essence of which is confidence reposed by a person in another. This meaning is defined in Nārada (1)—

“स्वं द्रव्यं यत्र विश्वासान्निक्षेपव्यविशंकितः ।

निक्षेपो नाम तत् प्रोक्तं व्यवहारपदं बुधैः ॥”

The other meaning is only that of a particular class of transactions of that name—in other words, it is only a species called “निक्षेपः” under a genus also called “निक्षेपः”. This special class also going under the name “निक्षेपः” is thus defined by Vyāsa—

“स्थानत्यागाद् राजभयाद् दायादानां च वञ्चनात् ।

स्वद्रव्यमर्प्यतेऽन्यस्य हस्ते निक्षेपमाह तम् ॥”

When a person leaves for foreign lands, when he wants to protect his treasures against king's wrath, when he is afraid that co-parceners will cheat him of his just share in the joint

family, he leaves his wealth in another's hands and this is called "निक्षेपः". A typical instance is that of Rākṣasa, the minister of the fallen king Nanda, fleeing from wrath of Caṇakya, as given in the drama Mudrārākṣasa. It is distinguished from "न्यासः" in that whereas "न्यासः" is depositing in absence of the depositor, with some man of his, "निक्षेपः" is depositing in presence of the depositor with him personally. "न्यासः" seems to be a more urgent and emergent necessity. There is a common point thus between "उपनिधिः" and "न्यासः"; for "उपनिधिः" which is a deposit in sealed cover, is also delivered in absence of the depositor with some man of his—as noticed by Viramitrodaya "अयमेव न्यासो अगणितद्रव्यस्थापने उपनिधिः उच्यते ।" Again the common point between "न्यासः" and "निक्षेपः" is that the articles openly are delivered to the depositor, who can thus know their exact nature, identity and extent. The following passages may be noted :—

(a) "स्व-द्रव्यम् अन्यस्य हस्ते ग्राहकसमक्षम् एव अर्प्यते क्षेमार्थं यत् तत्र निक्षेपशब्दो वर्तते इत्यर्थः; तच्च अर्पणं ग्राहकस्य पुरतः गणनं कृत्वा कार्यम्, निक्षेपम् गणितं विदुः इति नारद-स्मरणात् ।"—Smṛti-Candrikā in commenting on the above passages of Vyāsa, defining the particular class "निक्षेपः".

(b) "तथा च अयम् एतेषां भेदः । ग्राहकस्य समक्षम् गणयित्वा स्थापितं निक्षेपः । गृहस्वामिनः असमक्षम् गणितम् वा, तस्मिन् आगते एतत् दातव्यम् इति उक्त्वा अन्यस्य तत्-पुत्रादेः हस्ते न्यस्तम् न्यासः, मुद्रांकितं समक्षम् अगणितं स्थापितम् उपनिधिः इति ।"—Viramitrodaya.

Viramitrodaya also cites the full Nārada passage—

"असंख्यातमविज्ञातं स-मुद्रं यन्निधायते ।

तज्जानोयादुपनिधिं निक्षेपं गणितं विदुः ॥"

Nārada thus distinguishes between the two meanings of the word "निक्षेपः".

(c) "विवाहाद्यत्सवेषु वस्त्रालंकारादि याचित्वा आनीतं याचितम् । यत् एकस्य हस्ते निहितं द्रव्यम्, तेनापि अनु पश्चात् अन्यहस्ते, स्वामिने देहि इति

निहितम् अन्वाहितः, न्यासी नाम गृहस्वामिने अदर्शयित्वा तत्परोक्षम् एव गृह-
जनहस्ते प्रक्षेपः, गृहस्वामिने समर्पणायम् इति। समक्षं तु समर्पणम् निक्षेपः।”—
Mitākṣarā commenting on the ‘अतिदेशः’ passage of Yājñavalkya
“याचितान्वाहितन्यासनिक्षेपादिष्वयं विधिः”—Yājñavalkya II.67.

We again advert to the “अतिदेशः” passage of Kātyāyana for explaining the word “क्रयः” and “प्रोषितनिक्षेपः” and also the “अतिदेशः” passage of Bṛhaspati, for discussing the meaning of “शरणागते” to discuss, why they are classed under the heading “निक्षेपः”. To understand this we have to bear in mind that, an the element of confidence is always there (विस्तम्भः or विश्वासः). “क्रयः” here is remaining of the purchased property in the custody of the vendor, even after the sale is complete and title passes to the purchaser. In such a case, the relation of the bailor and the bailee, is established with reference to the article purchased, between the vendee and the vendor. Vivāda-Ratnākara says, “क्रयः क्रीतद्रव्यम् कुतश्चित् निमित्तात् विक्रेतृपार्श्वस्थितम्”; “प्रोषितनिक्षेपः” is deposit of an article, delivered to one, when going abroad—it is noticed by Vyāsa and Bṛhaspati by the word “स्थानत्यागात्.”

The word “शरणागतः” means one who has taken shelter of somebody, against imminent danger or trouble. When dependents like women and slaves run away from the chastisement of their lord and master—the *patria potestas*,—and take shelter with a strong person, this latter becomes the guarantor of their person and property, by assuring them and thus become their bailee and all rules of law under the heading “निक्षेपः” apply to their mutual relations. Vivāda-Ratnākara therefore declares “तथैव शरणागते—भयादिना स्त्रीदासादौ शरणप्रविष्टे स्वामित्वाभिमतान् सह विवादे एष एव विधिः इति।”

Thus, transactions wide apart in their nature, are classed together under the heading “निक्षेपः”, the fundamental principle of classification running through them all—one coming into possession of another’s property, simply for commanding *unbounded confidence*.

This is well laid down in the very first passage of Nārada on the subject already cited at the outset, and there is remarkable unanimity among all the authorities on the subject of classification, on this fundamental principle as we have just now found. Hence Sir T. Strange, in his book *Elements of Hindu Law* referable to British Judicature in India, Vol. I (Ed. 1825), pp. 277, etc., wrongly declares that Hindu writers differ in their division of bailments and himself then proceeds, on the assumption, that the number of bailments have been given differently by different Hindu writers—to evolve his own principle of classification, which he thinks, reconciles all the different kinds noticed by different writers. We have just noticed that all writers enumerate the principal kinds, prevalent, but nowhere indicate they are exhaustive, so that the varieties like “*क्रयः*” and “*बन्धः*” always may fit in. It is a mistake to suppose that there was given the complete series by each writer. Rather, the definition is complete and not the enumeration. The “*अतिदेशः*” passage and the “*संज्ञा*” passage of “*नारदः*” must be read together in this connection. Sir T. Strange however classifies on the principle of benefit that may accrue to one or other or both the parties to the contract. Thus where the contract is for the benefit of the bailor, he takes it to be of two kinds—first, simple deposits and secondly, *mandatum* or execution of commission of any kind for another, upon any property of the latter. In the first case, it is to be simply held, pending delivery ; in the latter case something without reward is to be done upon it. Now this latter case is hard to find where an active duty is imposed upon the bailee, *without reward*. Then Sir T. Strange mentions as examples of contracts, accruing to the benefit of the bailee only, loans for use, *i.e.*, “*याचितकः*” ; the examples, where the benefit is on both sides, are mutual trusts (*प्रतिन्यासः*), pledges (*आधिः* or *बन्धः*) and the various kinds of hiring, *i.e.*, “*शिल्लिन्यासः*” or “*वैश्यवृत्त्यर्पितः*”. Now Sir T. Strange puts the class pledges (*आधिः* or *बन्धः*) under both bailments “*निक्षेपः*” as well as loans

for consumption, as he calls “ऋणादानम्”. The reason is that, according to him, “A pledge is an accessory contract, being a bailment of something, to the creditor on a loan of money, which, by the Hindu Law, may be security only or for security, joined with use, etc.,” p. 287. And again he says—pp. 294, etc.—“The loan for consumption differs from a loan for use, which is a bailment... and for performance of terms of contract (in loans for consumption) it is usual to take security consisting in pledges or sureties or both.”

Hence, according to Sir T. Strange, pledges (आधि: or बन्धः) are the common topic to both “निक्षेपः” and “ऋणादानम्”. This is a confusion of the basic principles, adopted by the Hindu jurists, which radically separate subjects of one topic from subjects of the other. The basic principle of bailments (निक्षेपः) as just seen, is personal confidence and other things are non-essential. The basic principle of “ऋणादानम्” is not personal confidence, but delivery of the object of loan,—money or other thing. This delivery is not secured by personal confidence, but the sureties or pledges. Hence the law of pledges is part and parcel of the law of delivery of loans. Hence Sir T. Strange is wrong, when he says—that “a pledge is a bailment.” The duties of the bailee are never fastened by the Hindu jurists upon the pledgee. The two sets of duties are different, though sometimes, as just before noticed, some pledges may take the form of bailment and they are duly noticed. Hence it is that Nārada declares twenty-five sub-headings under the topic “ऋणादानम्” of which pledges is eighth in order—“ऋणादानं पञ्चविंशतिः षडौपनिधिके स्मृताः.” Of the six sub-headings under which the topic “निक्षेपः” is dealt with, “आधिः” nowhere finds a place. We note the following passages—

“ऋणं देयमदेयञ्च येन यत्र यथा च यत् ।

दान-ग्रहणधर्माभ्यामृणादानमिति स्मृतम् ॥”

(Nārada, 1—ऋणादानम्)

“विस्त्रम्भहेतुं दावत्र प्रतिभूराधिरैव च ।

लिखितं साक्षिणश्च द्वे प्रमाणे व्यक्तिकारके ॥”

(Nārada, 117—ऋणादानम्)

Hence, pledges are invariably connected with loans, bailments are not so; in one case, delivery of materials is the cause of security, and in the other, personality of the bailee. Sir T. Strange's classification corresponds to Story's classification of English bailments—*vide* Story, Bailments, s. 2. It is true, as Sir T. Strange remarks, that “confessedly, the most material if not the whole of the principles of English Law of Bailments, have been imported into it, through Bracton from Romans” (p. 277). It will be convenient here to compare Roman and its derivative English law of Bailments in its classification of Bailments with the Hindu classification, just noticed. For this purpose, we adopt classification stated by Lord Holt, in *Coggs v. Bernard* (1704), 1 sm., L.C. 181. *Depositum* of English and Roman Law, in which the Depositor was only benefited, where it is a delivery of the thing for safe custody, corresponds to Nyāsa, Nikṣepa and Upanidhi of Hindu Law. *Commodatum* or loan for gratuitous use of an object of English and Roman Law, corresponds to Yācitaka of Hindu Law. *Locatis Conductio Rei*, where delivery for use is not gratuitous, but for a fee or in other words, hiring, corresponds to pledges of particular objects, where the enjoyment of the usufruct was purchased as it were, by the money delivered. The Hindu Law places this kind in the chapter, Ṛṇādānam, because, the essential element of Nikṣepa is wanting here—personal confidence. This is called a species of Bhogyādhi, where the hire fee is the credit money of the creditor and where the pledge is never destroyed, that meaning the creditor is bound to deliver it, as soon as it is required.

Next *Vadium* or pawn or pledge, as a security for money, borrowed by the bailor, or rather the debtor, is not called a bailment at all by the Hindu Lawgivers. As we have seen

already Ādhi and Nikṣepa are separately treated by them. Next we come to *Locatio operis Faciendi* of English and Roman Law, which means delivery of goods to be carried or for something to be done to them, for payment which corresponds to “Vaiśyavṛttiyarpita” or “Silpi-nyāsa” of the Hindus. There may be a question here, that there is a payment for labour, but it is not this payment that forms the essential characteristic of the transaction. It is the personal confidence again, that forms the essence here. Lastly we come to *Mandatum* or delivery of goods to be done something to them, not for fee, but gratis; it also corresponds to the same two species of Hindu Law—“Vaiśyavṛttiyarpita” and “Silpi-nyāsa” for they may be both with and without reward. Lastly there are other kinds, mentioned under Nikṣepa, which are not mentioned in the other systems, *e.g.*, taking care of minors with their property, which corresponds to *Fideicommissa* of the Roman and Law of Trusts in the English System. By all the Hindu authorities, the subject of Nikṣepa or bailment is treated under the following heads and we propose to follow them, namely, (i) The qualifications of a bailee (Nikṣepa-dhāri-guṇāḥ), (ii) how to execute the bailment, (Nikṣepa-siddhi), (iii) the duties of the bailee, which are again divided into following sub-headings—(i) Standard of care in custody of the bailee (Nikṣepa-pālanam) (ii) Mode of return of the object of bailment (Nikṣepa-pratyarpanam), (iii) Exceptions to the liability of the bailee (Sabhyabhūta-grahitṛ-ṛviṣayaḥ), (iv) Faults of the bailee (Grahitṛdoṣāḥ)—which again lead to—(a) Refusal to part with the object, (b) Conversion by the bailee, (c) Penalties and defaults, (d) Mode of Execution of liability upon the unwilling or dishonest bailee, (e) Liabilities and immunities in special cases.

(I) *The Qualifications of a Bailee.*

The following passages are cited by the authorities as qualifications of a bailee, all virtues tending to inspire confidence:—

- (a) “कुलजे वृत्तसम्पन्ने धर्मज्ञे सत्यवादिनि ।
महापक्षे धनिन्यार्ये निक्षेपं निक्षिपेद्बुधः ॥” (मनुः)
- (b) “स्थानं गृहं च तद्वर्णं विधानञ्च गुणं तथा ।
सत्यं शौचं बन्धुजनं परीक्ष्य स्थापयेन्निधिम् ॥” (बृहस्पतिः)

The bailee must be a man of noble lineage, of good conduct and character, learned in law, dutiful and truthful, has got numerous friends, followers or helpers, is greatly wealthy and a man of plain and honest dealings, who shrinks from any sort of ignoble action. Hence, before depositing any treasure with a person, with the hope of getting it returned when wanted, one must look to the country, nationality, caste and family, conduct and character of the company he keeps. All the authorities comment upon the word “महापक्षे” of Manu—it means, all are agreed, one full of friends, well-wishers and helpers. Hence, Viramitrodaya says—‘महापक्षे बहुनरबन्धुयुक्ते’. Vivāda-Ratnākara says—“बहु-स्वजनः” ।

(II) *How to execute the Bailment.* (Nikṣepa-siddhi)

The object of bailment may be delivered, either in presence of witnesses or in their absence, in secret. In the latter case, swearing on solemn affirmation is resorted to, in case of dispute on occasion. The following passages are important :—

- (a) “स-साक्षिकं रहो दत्तं द्विविधं समुदाहृतम् ।
पुत्रवत् परिपाल्यं तद् विनश्यत्यनवेक्षया ॥” (बृहस्पतिः)
- (b) “स पुनर्द्विविधः प्रोक्तः साक्षिमानितरस्तथा ।
प्रतिदानं तथैवास्य प्रत्ययः स्याद् विपर्यये ॥” (बृहस्पतिः)

It is to be noticed that the latter halves of these passages deal with the mode of return and realisation. The essence is delivery in presence of witnesses or in their absence, and the witnesses are mentioned and not written instruments of bailment, because delivery is the essence of the transaction.

(III) *The Duties of the Bailee.*

Under the heading—the duties of the Bailee—the first point to be taken up is the *standard of care while in his custody*.

In the latter half of the passage of Br̥haspati, just quoted, the indication of care is given—the bailment is to be cared for, as he would do, for his own son—“*पुत्रवत् परिपाल्यं तत्* ।” It is a thankless task, which the bailee or simple custodian undertakes without reward and hence, pure religious merit attaches to one who is a faithful bailee. The merit that accrues to one who gives away gold, ornaments, valuable metals to others, who reassures one who takes shelter with him, it is the merit of a faithful bailee. On the other hand, sin of a murderess of her husband or sin of a father murdering his son, or, a friend, accrues to a bad bailee who “swallows up” the object bailed.

The following passages may be noted :—

ब्रह्मसूतिः—“ददतो यज्ञवेत् पुण्यं हेमकुप्याम्बरादिकम् ।

तत् स्यात् पालयतो न्यासं विनश्यत्यनवेक्षया ॥

भर्तृद्वेहे यथा नार्याः पंसः पुत्रसहृद्वधे ।

दोषो भवेत्तथा न्यासे भक्षितोपेक्षिते नृणाम् ॥”

The standard of care is indicated by three degrees of negligence, which contribute to the destruction of the object bailed, by a passage, which is attributed to both Vyāsa and Kātyāyana and three kinds of liability are imposed accordingly in the matter of restoration apart from penalty.

“भक्षितं सोदयं दाप्यः समं दाप्य उपेक्षितम् ।

किञ्चिदूनं प्रदाप्यः स्याद् द्रव्यमज्ञाननाशितम् ॥”

Thus, there are three degrees of negligence, “भक्षितम्”, “उपेक्षितम्” and “अज्ञाननाशितम्”. When it is wantonly consumed, it is “भक्षितम्”, when it is simply allowed to perish through neglect, it is “उपेक्षितम्” and where no neglect or indifference is involved, but simply ignorance or inadvertence, “अज्ञाननाशितम्” .

Next we pass on to *Mode of return of the object of Bailment.*

The object is to be returned in the exact identical manner in which it was taken. No equivalent or substitute may be delivered. But this holds good only generally in case of a Nikṣepa. About Śilpi-nyāsa or about Vaiśyavṛtttyarpita, which involves labour and skill upon the object, this general rule will be modified. Hence special rules have been framed for them, governing their return. However, generally speaking the purpose of the bail must be faithfully carried out. Note the following passages about the mode of return :—

- (a) “प्रतिदेयं तथैव तत् ।” (Yājñavalkya, II. 65)
- (b) “यो यथा निक्षिपिष्वस्ते यमर्थं यस्य मानवः ।
स तथैव ग्रहीतव्यो यथा दायस्तथा ग्रहः ॥” (मनुः)
- (c) “मिथो दायः कृतो यस्तु गृहीतो मिथ एव वा ।
स तथैव प्रदातव्यो यथा दायस्तथा ग्रहः ॥” (मनुः)
- (d) “समुद्रे नाप्नुयात् किञ्चिद् यदि तस्मान्न संहरेत् ।” (मनुः)
- (e) “स्थापितं येन विधिना येन यत्र यथाविधि ।
तथैव तस्य दातव्यं न देयं प्रत्यनन्तरे ॥” (बृहस्पतिः)

Of these, (c) relates to “प्रतिन्यासः”, (d) relates to “उपनिधिः” where sealed cover is to be returned intact, as it was originally given, (e) raises a question by the word “प्रत्यनन्तरे”. The word means sons or other heirs (apparent not presumptive). It may also mean, as explained in Smṛti-Candrikā, a co-parcener or even a vendee, who has got a title to the object bailed “स्थापकेतरस्य यस्य स्थापितद्रव्ये स्वाम्यमस्ति स इह प्रत्यनन्तरः इति स्मृतिचन्द्रिकायाम् ।”

There may arise an occasion to return the object bailed, to the bailor, who is however then away or abroad. In such a case, the bailee must not deliver it to “pratyanantara” though he may be described as the bailor's representative on the spot. The law enjoins there, bidding the time of arrival of the bailor.

The reason advanced, is that *Pratyanantara* may die in the meantime, and when the bailor returns, he may demand the thing afresh from the bailee ; and even if *Pratyanantara* does not die, when the bailor returns, it may happen, that *Pratyanantara* may refuse to part with the object bailed, in which case, the bailee will be held answerable.

“ निक्षेपोपनिधौ नित्यं न देयौ प्रत्यनन्तरं ।
नश्यतो विनिपाते तौ अनिपाते ल्वनाशिनौ ॥”

Vivāda Ratnākara comments upon this :—

“जीवति असन्निहिते निक्षेप्तरि एतद्वक्ष्यभागिनि पुत्रादौ निक्षेपोपनिधौ न देयौ । यतो विनिपाते नाशे पुत्रादेरेतौ निक्षेपोपनिधौ नश्येते, न निक्षेप्तरि सम्पद्येते । अनिपाते तु अविनाशे तु कदाचित् प्राप्येते । अतो विनाशे तु सति निक्षेप्ता तत्पार्श्वं पुनरपि तावत्परिमाणं द्रव्यं गृह्णीयात् इति शङ्कया तौ जीवतो निक्षेप्तेव समर्पणीयौ इत्यर्थः ।”

But when the bailor is dead and the time comes to return the bail, the bail must be offered even without asking, to the “प्रत्यनन्तरः” as otherwise there may be complaint against the bailee, by the kinsmen of the bailor before the king.

“स्वयमेव तु यो दद्यान्मृतस्य प्रत्यनन्तरं ।
न स राज्ञाभियोक्तव्यो न निक्षेपुश्च बन्धुभिः ॥”

When the bailor is alive, he may himself ask for return and without asking, there is no duty in the bailee to return, but once asked, he must return without hesitation. Hence Brhaspati—

“न्यासद्रव्यं न गृह्णीयात्तन्नाशस्त्वयशस्करः ।
गृहीतं पालयेद् यत्रात् सङ्गद याचितमर्पयेत् ॥”

Also Kātyāyana—

“निक्षेपं वृद्धिशेषं च क्रयविक्रयमेव च ।
याच्यमानं न चेद् दद्यात् वर्द्धते पंचकं शतम् ॥”

Also Brhaspati—

“भेदेनोपेक्षया न्यासं ग्रहीता यदि नाशयेत् ।

याचमानो न दद्याद्वा दाय्यं तत् सोदयं भवेत् ॥”

The gist of these passages is, that the return must be made as soon as once the demand is made. Refusal on demand entails payment of interest at 5 per cent. per mensem. The reading “सकृद्योचितम्” is found also for “सकृद् याचितम्” in Vivāda-Ratnākara. But before asking, when a time is stipulated for giving back, waiting for that time must be made by the bailee, otherwise in offering to give up the object before expiry of such time, there is breach of faith which is a punishable offence, though of course, if the bailor asks before time, delivery back may be made. Hence the following passage of Kātyāyana :—

“ग्राह्यस्तूपनिधिः काले कालहीनन्तु वर्जयेत् ।

कालहीने ददद्दण्डं द्विगुणं च प्रदाप्यते ॥”

The condition of bidding the time must be strictly fulfilled. The penalty otherwise is double the value of the object. It has been said that once the demand is made by the bailor for return it must be complied with ; and that if the refusal is made, it involves payment of interest. But if it is not refusal, but simply delay in complying with the demand for return, the interest has not to be paid, but simply the object itself, or if the object is destroyed, in the meanwhile, through the act of God or king, in which the bailee has no contributory responsibility, the equivalent in value has to be returned. The following passages may be noted :—

(a) “याचनानन्तरं नाशे देवराजकृतेऽपि सः ।

ग्रहीता प्रतिदाप्यः स्यान्मूलमात्रं न संशयः ॥”—व्यासः ।

(b) “याचमानस्तु यो दातुर्निक्षेपं न प्रयच्छति ।

दण्ड्यः स राज्ञो भवति नष्टे दाय्यं च तत्-समम् ॥”—नारदः ।

(c) “अप्राप्त्यर्थमिति दत्तं दाय्यं दण्ड्यं तत् समम् ॥”—याज्ञवल्क्यः ।

The following comment of Vīramitrodaya on (b) (नारद) may be noted :—

“प्रत्यर्पणविलम्बमात्रापरान्धे स-वृद्धिकथनस्य अन्याय्यत्वात् राज्ञा च तत्समो दण्डो देय इत्याह नारदः ।”

The last three passages cited indicate also that a penalty equal in value to the object has also to be paid to the king in a case, where though there is no refusal, there is simply delay in compliance. This leads to consideration of the next two topics under the heading, “Duties of the Bailee,” namely, *his faults and liabilities* and *the exceptions to them*.

As regards the bailee's *faults and liabilities*, Kātyāyana's two passages must be first cited :—

“न्यासादिकं परद्रव्यं प्रभक्षितमुपेक्षितम् ।

अज्ञाननाशितं चैव येन दाप्यः स एव तत् ॥”

“भक्षिते सोदयं दाप्यः समं दाप्य उपेक्षिते ।

किञ्चिदूनं प्रदाप्यः स्याद् द्रव्यमज्ञाननाशितम् ॥”

This second passage is attributed to Vyāsa, for example in Vīramitrodaya. These passages contemplate the varying degrees of liability of the bailee to the bailor, apart from penalties to the king, which they also entail and which will be separately dealt with under the heading, *penalties for faults by the bailee*.

These liabilities also relate to the time, when the object remains in the custody of the bailee. There is a separate second set of liabilities, as just before noticed, that though full care is not wanting at the time of custody, there is negligence or refusal to return. These also involve penalties or fines to the King. Thus then remembering it clearly that there are two sets of liabilities and penalties of the bailee, one, while in custody, the other, while the occasion for return comes, either on demand by the bailor or when stipulated period comes to an end and the bailor demands or in offering before time to give up the object bailed,—we proceed to

note about the two passages of Kātyāyana just cited, that they contemplate three kinds of liability of the bailee, while the object is in his custody, namely, when he wantonly without authority consumes or converts it to his use (प्रभक्षितम्), secondly, when he simply neglects or allows it to deteriorate or to be destroyed (उपेक्षितम्) and thirdly, without his knowledge but without want of care, the thing perishes or deteriorates or becomes useless (अज्ञाननाशितम्).

In the case of “प्रभक्षितम्” the thing’s substitute is to be returned with interest at 5 per cent. per mensem; in the case of negligence, it is to be returned, but without interest; in the case of destruction without negligence, but without his knowledge, it is to be paid, minus one-fourth its value, as Mitāksharā explains—“किञ्चिद्ग्नम्, चतुर्थांशन्यूनम्.”

As regards the second set of liabilities of the bailee to the bailor, that is to say, when the time comes to return and the former fails in his duty, even though the thing may perish through a cause, in which the bailee has no hand, he is still held responsible as, had he complied promptly with the request, there might not be any such occasion. Always then in such a case, the bailee is to deliver the object and if it perishes accidentally, but without his hand in it, he has still to make it good, and pay a penalty equal in value to the thing.

The passages, bearing on the above principle, with the material words underlined may be noted below :—

(a) “याचमानस्तु यो दातुर्निक्षेपं न प्रयच्छति ।

दण्डः स राज्ञी भवति नष्टे दाप्यं च तत्-समम् ॥”—नारदः ।

(b) “भ्रंशश्चेन्मार्गितेऽदत्ते, दाप्यो दण्डं च तत् समम् ।”—याज्ञवल्क्यः

(c) “याचनानन्तरं नाशे दवराजकृतेऽपि सः ।

ग्रहीता प्रतिदाप्यः स्वान्मूलमात्रं न संशयः ॥”—व्यासः ।

These passages do not involve deliberate refusal. If however there is deliberate refusal, even though the subject may

not perish, the subject may not be returned, except without payment of interest which, on authority of Kātyāyana, bears interest at five per cent. per mensem, that is to say, is to be regarded henceforth, as a debt in the hands of the bailee.

“यस्य दोषेण यत् किञ्चिद् विनश्येत क्षियेत वा ।

तद्व्यं सोदयं दाप्यं दैवराजकृताद् विना ॥”—कात्यायनः ।

“भेदेनोपेक्षया न्यासं ग्रहीता यदि नाशयेत् ।

याचमानो न दद्याद् वा दाप्यं तत् सोदयं भवेत् ॥”—बृहस्पतिः ।

“निक्षेपं वृद्धिशेषं च क्रयविक्रयमेव च ।

याचमानं न चेद् दद्याद् वर्द्धते पञ्चकं शतम् ॥”—कात्यायनः ।

There is another occasion, where the object, in the hands of the bailee, bears interest at five per cent. per mensem. It belongs to the category of the first set of liabilities, that is to say, when the bailee wantonly without permission of the bailor, converts the thing to his own use.

It has been already referred to in citing Kātyāyana—

“भक्षिते सोदयं दाप्यः”—The further passages are :—

“यं चार्थं साधयेत्तेन निक्षेपुर्ननुज्ञया ।

तथापि दण्ड्यः स भवेद् दाप्यं तच्चापि सोदयम् ॥”

(Nārada, 8, Ch. on Nikshepa, Dr. Jolly.)

Vīramitrodaya reads—“यत्रार्थं साधयेत्” and explains the word दण्ड्यः as “दण्ड्यः साधितद्रव्यानुसारिण ।”

The penalty is according to the value of user.

“आजीवन् स्वेच्छया, दण्ड्यो दाप्यं तच्चापि सोदयम् ।”—याज्ञवल्करः ।

“स्वेच्छया—निक्षेपुः अननुज्ञया ।”—स्मृतिचन्द्रिका ।

“आजीवन्, भोगवृद्ध्यर्थप्रयोगादिना उपजीवन् ।”—वीरमित्रोदयः ।

Vīramitrodaya says that he living by hiring out and otherwise also living on the usufruct of the object bailed, becomes liable to pay interest.

“न्यासद्रव्येण यः कश्चित् साधयेत् कार्यमात्मनः ।

दण्ड्यः स राज्ञो भवति दाप्यन्तच्चापि सोदयम् ॥”—बृहस्पतिः ।

Smṛti-Candrikā remarks that it follows from these passages, as a corollary, that the bailee may use with permission of the bailor.

“स्वाम्यनुज्ञया तु साधयतो न दोषः, इति प्राचीनवचनेषु एव अर्थात् अवगम्यते ।”

The five per cent. interest in such a case is explained on the ground that all sorts of treasures which are “प्रीतिदत्तम्” bear interest since the time they are asked back and if not repaid then bear interest at five per cent. The following passage—Nārada, 109, “ऋणादानम्” may be noted with Asahāya’s comment on it :—

(Dr. Jolly.)

“प्रीतिदत्तं तु यत् किञ्चिन्न तद् वर्द्धत्ययाचितम् ।

याच्यमानमदत्तं चेद् वर्द्धते पञ्चकं शतम् ॥”

असहायः—“प्रीतिदत्तं यत् किमपि भवति तत् तावत् न वर्द्धते यावत् न याचितम् । यदा पुनः याच्यमानमपि न दीयते तदा षण्मासात् अर्वाक् अपि तद्विवसादारभ्य पञ्चकशतवृद्ध्या वर्द्धते ।”

Nārada speaks of a six months’ grace and then interest at five per cent.

As regards the penalties that are exacted from a defaulting bailee, by the king, it has been already noted that in case of refusal to return and in case of simple failure to return quickly, the penalty amounts to the value of the thing bailed. The same penalty also attaches, when the thing perishes through the bailee’s fault, while it is in his custody.

Penalty in case of consumption or wanton conversion to use, is also the equivalent in value of the thing.

We may note the following passage :—

“निक्षेपस्यापहर्तारं तत्समं दापयेद् दमम् ।

तथोपनिधिहर्तारमविशेषेण पार्थिवः ॥”

Smṛti-Candrikā reads “विशेषेणैव” for “अविशेषेण” without materially changing the meaning.

“निक्षेपापहारी वृद्धि-सहितं धनं धनिकस्य दाप्यः”—विष्णुः ।

Penalty in case of complete denial and trying to conceal the property bailed and giving false evidence for that purpose, is also the equivalent in value of the thing, in addition to the full restoration to the bailor, but without interest. The following passages may be noted :—

“निक्षेपं निहृते यस्तु नरो बन्धुबलान्वितः ।

साक्षिभिर्वाय दिव्येन विभाव्य प्रतिदाप्यते ॥”—व्यासः ।

Smṛti-Candrikā remarks on it—“अपहृते तु अद्वैतिकम् एव साधितं दाप्यः इत्याह व्यासः ।”

This passage speaks only of the liability to the bailor. The penalty is spoken to, by Brhaspati :—

“गृहीत्वापहृतं यत्र साक्षिभिः शपथेन वा ।

विभाव्य दापयेन्न्यासं तत्-समं विनयं तथा ॥”

The word विनयम् means “दण्डः” ।

Also, Manu :—

“निक्षेपो यः कृतो येन यावांश्च कुलसन्निधौ ।

तावानेव स विज्ञेयो विबुधन् दण्डमर्हति ॥”

One who tries to distort the evidence of witnesses in order to secure permanent possession of the thing in his custody against the true owner deserves penalty, which is equivalent to the thing's value, as in other passages. The first half of this passage, speaks of the exact manner of giving the thing back as it was taken. The witnesses must speak the absolute or literal truth and the number and identity of witnesses must be the same in both cases. Smṛti-Candrikā remarks—

“स-साक्षिके साक्षिवचनं विरुद्धं ब्रुवन् दण्ड्य इति ।”

The last passage, quoted,—that of Brhaspati,—speaks of a transaction which is public, being made in the presence of witnesses as also one, which is made in secret, on solemn oath of the man taking the thing, in his charge. The penalty of

distorting evidence of witnesses is the same, as making false oath. And swearing on solemn oath is the only means of proving secret transactions, as spoken to, by Brhaspati :—

“रहो दत्ते निधौ यत्र विसंवादः प्रजायते ।

विभावकं तत्र दिव्यमुभयोरपि च स्मृतम् ॥”

In speaking of the number and identity of witnesses Sir T. Strange remarks, that the law was same in Greece and he takes it from Sir William Jones' Essay on the Law of Bailments, p. 51, that Demosthenes, for a client of his, sued in an action to recover a deposit, set up a defence, which must have prevailed at Benares, that action having been brought by two only, out of three, who had been concerned, all three proprietors must be ready to receive the bailment, otherwise the bailee was not bound to restore it—Elements, Vol. I, pp. 278, etc.

Reverting from this digression to the subject of *Penalties*, there is another instance of them, namely, where the bailee refuses to part with the object, not indeed concealing it or denying its knowledge, but simply surreptitiously postponing the delivery from day to day to the Greek Calends, in such a case, as also in a case where one dishonestly or fraudulently imputes bailment of an object of his own with an innocent person, the penalty is the penalty of theft and the penalty of theft is the first Sāhasa, and the first Sāhasa, amounts to 250 paṇas. *Vide* Visnu Smṛiti—“पणानां हे शते सार्द्धम् प्रथमसाहसः स्मृतः ।”—Chapter 4.

The Matsya Purāṇa awards prathama Sāhasa, as penalty and double the value to the bailor, coming thus in conflict with Manu, who speaks of the equivalent, and not double, to the bailor. The former is explained as referring to one, who is not a Brahmin. We quote the texts side by side :—

Matsya Purāṇa :—

“यो नार्पयति निक्षेपं यश्चानिच्छिप्य याचते ।

तावुभौ चौरवच्छास्यौ दाप्यौ वा द्विगुणं दमम् ॥”

Manu :—

“यो नापयति निक्षेपं यश्चानिच्छिप्य याचते ।

तावुभौ चौरवच्छास्यौ दाप्यौ च तत्-समं दमम् ॥”

Vivāda-Ratnākara cites in this connection a passage of Manu—penalty of death, for fraudulent act in cheating one of property :—

“उपधाभिश्च यः कश्चित् परद्रव्यं हरिन्नरः ।

स-सहायः स हन्तव्यः प्रकाशं विविधैर्वधैः ॥”

“अयं च द्विगुणधनात्मको दण्डः धनवति निष्कृष्टाचारादौ च द्रष्टव्यः ।”

—विवादरत्नाकरः ।

“द्विगुणो दण्ड उक्तो दुर्वृत्तविषयो ब्राह्मणातिरिक्तविषयो वा ।”

—वीरमित्रोदयः ।

Lastly the penalty is double the value of the thing bailed, if it is offered to be given back before time.

“कालहीने ददद्दण्डं द्विगुणं च प्रदाप्यते ।”

Besides the penalties of the state, the punishment of the other world is dragged down also, as also infamy in the society in which the bailee moves, is hinted at by the following passages :—

“न्यासद्रव्यं न गृह्णीयात्तन्नाशस्त्वयशस्करः ।”

“भर्त्तद्गोहे यथा नार्याः पुंसः पुत्रसुहृद्वधे ।

दोषो भवेत्तथा न्यासे भक्षितोपेक्षिते नृणाम् ॥”

“ददतो यद् भवेत् पुण्यं हेमकुप्याम्बरादिकम् ।

तत् स्यात् पालयतो न्यासम् तथैव शरणागतम् ॥”—बृहस्पतिः ।

“कुप्यम्, त्रपुसीसादिकम्”—सूतिचन्द्रिका ।

“न्यासग्रहणम् प्राचीनवचनत्रयेऽपि उपलक्षणार्थम्, तेन फलशुच्यादिकं निक्षेपादिवयसाधारणम् इति मन्तव्यम् ।”

The word “न्यासः” in these passages of Bṛhaspati also is symbolic of other kinds of deposit. Now we pass on to the subject of *Exceptions to the liability of a Bailee*.

In order to discover the exceptions, we must look to the fact that in every such case, there is no contributory negligence of the bailee. This contributory negligence is called “उपेक्षा”.

How in a particular case, to trace this “उपेक्षा” or to make sure that it is absent? All the authorities have dealt with the case, where the object has perished and yet no liability attaches to the bailee to return. In other words, “उपेक्षा” being not found, the acts of God and king destroying the object, excuse the bailee. The acts of God and king—दैवराजकृतम् are natural cataclysms such as fire, earthquake, flood, plunder by robbers or thefts, or king’s wrath. But apart from these also, there may be a loss, not traceable to the act of God or king, but still which involves the bailor’s and bailee’s goods—equally, where the bailee has not made any difference in the attempt to save between his own and the bailor’s in his charge. Hence such a loss, proceeding from any cause, whatever, where the bailee’s conduct is perfectly *bona fide*, absolutely above board, he will be excused and the overt conduct is the sign of a perfectly straightforward and innocent person. Hence, it comes to this that the bailee is immune, where, by his overt conduct he is found, not to distinguish between his own goods and the bailor’s and in spite of that, through some cause or other, the bailor’s goods are lost. It is thus the standard of care and caution of an ordinary prudent owner, that may be proved through overt acts or conduct, that is demanded of a bailee, which protects him from all liability. The following passages, as they are put in order, make this principle clear :—

- (a) “निक्षिप्तं यस्य यत् किञ्चित् प्रयत्नेन हि पालयेत् ।
दैवराजकृतादन्यो विनाशस्तस्य कीर्त्तयेत् ॥”
- (b) “यस्य दोषेण यत् किञ्चिद् विनश्येत् क्षियेत वा ।
तद्भयं सोदयं दाप्यो दैवराजकृताद् विना ॥”—कात्यायनः ।
- (c) “दैवराजोपवातेन यदि तन्नाशमाप्नुयात् ।
ग्रहीदद्रयसहितं तत्र दोषो न विद्यते ॥”

Viramitrodaya remarks on (b)—

“यतो देवराजकृतात् अन्यो विनाशस्तस्य ग्राहकस्य दोषेण कृतत्वेन कीर्त्यते ।”—
presumption rebuttable of fault of bailee arises on showing
that loss was not caused by act of God or king.

The overt act however that the thing is lost with the things
of the bailee is the sign that utmost care has been used.

“ग्रहीतद्रथसहितम् इत्येतत् उपेक्षाद्यभावनिश्चायकत्वेन उक्तम् ।”

—स्मृतिचन्द्रिका ।

“अराजदैविकेनापि निक्षिप्तं यत्र नाशितम् ।

ग्रहीतुः सह भाण्डेन दातुर्नष्टं तदुच्यते ।”—कात्यायनः ।

Kātyāyana here mentions any cause other than the act of
God or king, which excuses a bailee, and the overt act that he
showed utmost circumspection is the fact that his own goods
have been equally lost.

The same thing is repeated by Nārada :—

“ग्रहीतुः सह योऽर्थेन नष्टो नष्टः स दायिनः ।

देवराजकृते तद्वन्न चेत्तज्जिह्वाकारितम् ॥”

The overt act explains the innocence of the bailee, unless
proved that it was collusive to avoid liability.

“तत्र ग्रहीतर्थेन सह प्रध्वंसनम् कूटकारितम् न चेत् इति अन्यपादस्यार्थः ।”

—स्मृतिचन्द्रिका ।

“अराजदैविकेनापि” of Kātyāyana, is read as “राजदैविकचौरे वा”
by Viramitrodaya, without substantially affecting the meaning
as the author takes the terms symbolical of all sorts of causes,
which are not remediable. “देवराजग्रहणम् असमाधेयम्” ।

Yājñavalkya adds “तस्कारः” to “राजदैव” “न दाप्योपहृतं तच्च
राजदैविकतस्कारैः ।”

Viramitrodaya includes तस्कार in दैव in the term राजदैव and
Manu explains दैव as follows :—

“चौरैर्हृतं जलेनोदमग्निना दग्धमेव वा ।

न दद्याद् यदि तस्मात् स न संहरति किञ्चन ॥”

It is to be noted here that Manu uses the term “चौरः” and thus altogether we get, plunder by robbers and thefts by thieves, as included in the term “द्वैव” । In this connection there are some remarks made by Sir T. Strange, Elements, Vol. I, 278, about presumption attaching to the bailee of guilt, differently in case of a theft and a robbery. He states that “where collusion is not imputable, robbery always, by the Hindu Law, in opposition to theft, implies a degree of violence, against which, no bailee, whatever, not specially undertaking is held to contract ; whereas, if a loss happens by thieves, the distinction exists and a bailee, even without reward, may be chargeable, where such a want of due care can be shown as must be taken to have led to spoliation and he cites 1 Digest of Colebrooke, 423, 429. He prefaces this remark by saying that “it does not follow, though none of his own property have been lost, that he is to be necessarily answerable, if the deposit, having been kept with care, be lost notwithstanding, unless it can be shewn that he has kept his own with very different care.” In other words, Sir T. Strange would ascribe the burden of proof always to the bailor and this is against the express meaning of the authorities, for alike by the purport of Colebrooke’s Digest and by the cited passages, it seems, that unless act of God or king is present, the presumption arises of want of care on the part of the bailee, which he must disprove by showing any circumstance that can exculpate him, such as his own goods also have been lost with the bailor’s. Vīramitrodaya’s remark may be recalled in this connection “यतो दैवराजकृतादन्यो विनाशस्तस्य ग्राहकस्य दोषेण कृतत्वेन कीर्त्तयते ।” and this remark equally applies in case of thefts and robberies though of course, some authorities have included तस्कार in “राजदैव” as Yājñavalkya and others, as Manu, “चौर” also. In other words, the burden of proof has been always placed by the authorities on the bailee.

There is another case, where the bailee is free of guilt. Where the bailor, with his eyes open, places, the trust in a

quarter, which he knows, is liable to betrayal owing to some cause, if in future, the loss occurs though not on account of the contemplated cause, the bailee is not answerable.

“ज्ञात्वा द्रव्यवियोगं तु दाता यत्र विनिक्षिपेत् ।

सर्वापायविनाशेऽपि ग्रहीता नैव दाप्यते ॥”

“वियोगं राजोपद्रवादिना विनाशम् । सर्वापायविनाशेऽपि. अपायहेत्वन्तरेणापि तेन यत्र अपायहेतुम् उत्कटशंकाविषयं बुद्ध्यापि निक्षिपति, अपायहेत्वन्तरेणापि द्रव्यनाशे निक्षिपधर्त्ता न धनं दाप्य इत्यर्थः”—विवादरत्नाकरः ।

But even in such a circumstance, if it clearly transpires, that it is the contributory negligence of the bailee, that is responsible for loss, he will be held responsible.

“यत्र तु निक्षिपधारिणा द्रव्यनाशहेतो उद्भावितेऽपि उपेक्षान्यतद्दोषात् एव, निक्षिप्तम् विनष्टम् इति ज्ञायते, तदो निक्षिपधारक एव दद्यात् इत्याह स एव (कात्यायनः)—‘ग्राहकस्य हि यद्दोषात्, नष्टन्तु ग्राहकस्य तत् ।’ इति ।”

—Vivāda Ratnākara.

Lastly in dealing with the exceptions to liability of the bailee, we may note the special case of Upanidhi as in the following passage of Manu :—“समुद्रे नाप्नुयात् किञ्चिद् यदि तस्मान्न संहरेत् ।”—“मूषकादिना उपहृतेऽपि न किञ्चित् दूषणम् आप्नयात् ।” If he delivers up with the seal in tact he is not responsible, even though it may be ultimately found to be hollow or rent by rats. (Vīramitrodaya.)

It is to be read as applying not specially to Upanidhi but generically to be understood as applying to all sorts of deposits as Smṛti-Candrikā says—“एवं न्यासग्रहीतरि अपि उपेक्षाद्यभावे द्रष्टव्यम् असम्भत्वाभावात् ।”

It says that this principle of restoring in tact is applicable to other deposits such as “न्यासः,” only subject to the condition of absence of “उपेक्षा”—it ascribes another passage of Manu स-मुद्रात् नाप्नुयात्” as applicable to Upanidhi only.

Gautama speaks of liability of the sons and other heirs of the bailee when he dies without delivery of the bailment. He says that the heirs are liable, when the deceased bailee already had incurred default. Otherwise, they are not liable to the bailor :

The following—Gautama, 12th Chapter, pp. 201, etc., from the edition by L. Srinivasacharyya, is quoted :—

Sūtra No. 39—“निध्न्वाधियावितावक्रोताधयो सर्वान् अनिन्दितान् पुरुषापराधेन ।”

The verb “नाध्याभवेयुः” is understood, following from the preceding Sūtra.

“चोरहरणाग्निदाहादिना नष्टम् अपुरुष-प्रमादेन न दत्ताः भवेयुः, निन्दितैः प्रमादकारिभिः ते दातव्याः एव ।”

—मस्करिभाष्यम् ।

“सर्वान् पुत्रपौत्रान् ऋक्थिनः पुरुषापराधम् अन्तरेण न तेषां देयाः भवेयुः ।”

विवादरत्नाकरः ।

Next we pass on to *the mode of realisation from a refractory bailee.*

The following passages bear on the subject :—

(a) रहो दत्ते निधी यत्त विसंवादः प्रजायते ।

विभावकं तत्त दिव्यमुभयोरपि च स्मृतम् ॥

—बृहस्पतिः ।

(b) निक्षेपस्यापहर्त्तारम् अनिक्षेप्तारमेव च ।

सर्वैरुपायैश्चान्विच्छेत् शपथैश्चैव वैदिकैः ॥

—मनुः ।

(c) निक्षिप्तस्य धनस्यैव प्रीत्योपनिहितस्य च ।

राजा विनिर्णयं कुर्यादक्षिण्वन् न्यासधारिणम् ॥

—मनुः ।

(d) अच्छलेनैव चान्विच्छेत् तमर्थं प्रीतिपूर्वकम् ।

विचार्य तस्य वा वृत्तं सान्नेव परिसाधयेत् (परिशोधयेत्) ॥

—मनुः ।

- (e) निक्षेपो यः कृतो येन यावांश्च कुलसन्निधौ ।
तावानेव स विज्ञेयो विबुधन् दण्डमर्हति ॥

—मनुः ।

- (f) यो निक्षेपं याचमानो निक्षेपुर्न प्रयच्छति ।
स याच्यः (वाच्यः) प्राङ् विवाकेन तन्निक्षेपसन्निधौ ॥
साध्यभावे प्रणिधिभिर्वयोरूपसमन्वितैः ।
अपदेशैश्च संन्यस्य हिरण्यं तत्र तत्त्वतः ॥
स यदि प्रतिपद्येत यथान्यस्तं यथाकृतम् ।
न तत्र विद्यते किञ्चिद् यत् परेण अभियुज्यते ॥
तेषां न दद्यात् यदि तद्विरण्यं यथाविधि ।
ख्यं निगृह्य दाप्यः स्यादिति धर्मस्य धारणा ॥

—मनुः ।

These passages indicate that the bailee should not be coerced into delivery of the object in his charge. If on request, he derives all knowledge or bluntly refuses to deliver or tries to conceal or remove or puts off the bailor from day to day, the bailor should not take the law into his own hands. He should first try the mild art of persuasion, without resorting to tricks or strategy—"अच्छलेनैव चाच्छेत् सान्नैव परिसाधयेत्". But if in that case, the bailor still fails to make an impression, he will have to go to the king. The king then tries to use likewise very mild persuasion and remonstrance and then still if the bailee remains adamant, Manu describes a particular method, which seems to be one of the well-known methods, which ancient kings of these days employed in order to discover truth and secure justice. The king would then call up his spies, who are adepts or past masters in the art of taking guise of people of all sorts of classes and professions and they or one of them, may take the guise of a man, in age, looks and dress fit to be a fellow companion of the bailee and approach him, pick up his acquaintance, off and on, mix with him and representing himself to be a man in want of a bailee, deposit his valuable gold with

the man. After a certain period, when he would demand back, naturally if the bailee be a man of bad character, he would decline all knowledge and then the spy would report the matter to the king, who would recall the old case, stage a trial and would make the dishonest bailee, deliver up everything he appropriated. This is, in short, creating evidence, where there was none, to bind the bailee to his lawful duty. Naturally such an emergency as the above instance in *Manu* contemplates arises, where there are no witnesses, where deposit is not made public. But as Dr. Jolly remarks, the essence of deposit was confidence and most of these transactions, at least a considerable number, were made in secret. Hence such methods in such cases had to be frequently employed. It is to be noted that art of mild pursuasion is to be resorted to and this failing other methods, i.e., trickeries or solemn oath-taking—

“सर्वैरुपादैरन्विच्छेत् शपथैश्चैव वैदिकैः ।”

In fact, the art of mild pursuasion is also employed by a creditor to bring round a refractory debtor. The examples of bailor resorting to trickery, as Dr. Jolly remarks, may be found in *Mṛccha-Kaṭika*, where depositary makes amends for stolen ornaments and in *Rājatarāṅgiṇī* 8, 123ff, where the deceit of deposittee was detected, by discovery of large number of new coins, among the old ones deposited, which unmistakably pointed to constant use by the deposittee. *Asahāya* in his commentary on *Nārada*, passage No. 122, under the heading *Rṇadānam* very lucidly explains the art of self-protection and self-security by a creditor for his debt or for the matter of that, any other person entitled to demand some dues or realise something from a person. *Asahāya* says that as *Cānakya* prescribed in high politics of kings, the use of conciliation first (*sāman*) and then division among the ranks of the enemy (*Bheda*) and then tempting with rich presents (*upa-pradāna*) and last of all, the big stick of force, so, exactly these four measures in their order, under different names are prevalent among private individuals to secure their

mutual dealings. Only there is a fifth method not employed by kings but by private individuals and this is fasting or sitting dharna at the door of the person liable. It is called *Ācaritam* derived from the verb, *chari*, to eat. The saman of king is Dharma of private individual first tried, *i.e.*, mildly persuading the bailee to remember his sacred duty. That failing corresponding to Bheda of king, there is Vyavahāra, or the threat of law courts which might lessen his supporters and some may give out the truth. Then corresponding to Pradāna of the king, we have *Chala* (छलम्) or tempting with rich presents, if the truth be confessed. Last of all, the big stick, the force, which however is forbidden in case of the realisation of bailment, though allowed in case of realisation of debt. We have not come across however any instance of *Dharnā* (धर्ना) in old literature at the doors of the bailee by the bailor, which seems approved method, there being no bar against it in law. We quote Asahāya's Text in full from Dr. Jolly's edition of *Nārada-Smṛiti*, which is meant to be of universal application, not simply in case of debts :—

“अत्र चाणक्ये सामभेदोपप्रदानदण्डाः चत्वारः एव कार्यसाधनोपायाः दृष्टाः ।
अत्र ते एव चत्वारः केवलम् अन्यनामभिः धर्मव्यवहारच्छलबलसंज्ञाः निरुक्ताः ।
अधिकम् अत्र आचरितम् अभोजनम् । तच्च ऋणोदग्राहणविषयम् एव सोप-
योगम् न सार्वत्रिकम् । तदुक्तम्—धर्मेण नत् सान्ना प्रियधर्मस्मरणाय प्रथमम्
अर्थम् साधयेत् । तेन असिध्यमानम् भेदेन राजकीयसमाभयदर्शनेन व्यवहारेण ।
तथा प्रदानलोभं दर्शयित्वा छलेन । तथा दण्डेन, स्वकीयबलेनैव पादबन्धना-
चारोपपत्तेपादिना, एवम् एतैः सामादिभिः धर्मादिभिः उपायैः स्वकीयमर्थं
साधयेत् ।”

It is to be noted that Asahāya bears out Śapatha as one of the means, which is referred to in case of secret bailments. *Smṛiti-Candrikā* endorses this view of Asahāya and remarks in its comments on the passage—

“अच्छलेनैव चान्विच्छेत् तमर्थं प्रीतिपूर्वकम् ।
विचार्य तस्य वा वृत्तं सान्नैव परिसाधयेत् ॥”

saying that the method adopted by the deceased bailor may also be employed by his heir and when he does not know exactly with which person the bail lies, he may employ spying out, and further the author also extends the method of realising debts as common method for realising all kinds of liability; but he emphasises upon the appeal to good sense first and neither trickery nor hard swearing (शपथ) ought to be employed, he says, upon honest people—

“भयदर्शनाद्युपायान्तरेण कलादिना वा ऋणादानप्रकरणोक्तेन परिसाधयेत्
इति अस्मात् एव वचनात् एव अवगम्यते । तथा सहृते कलादिप्रयोगवत् शपथेन
शोधनस्यापि अनुचितत्वम् ।”

If the bailee dies transferring the object with or without consideration, to a third person, the bailor or his representative may follow it up there and realise from the transferee in the very same manner as he would do it from the bailee personally. These are not specially provided for, by the Smṛti-kāras, but as the Nibandha-kāras remark, they are obvious corollaries from the given texts.

“ग्राहके तु मृते पश्चात् यदधोनम् उपनिध्यादिजातम्. तेनैव स्थापके
प्रत्यनन्तरे वा प्रत्यर्पणीयम् इत्येतत् अतिस्थूलत्वात् स्मृतिकारैः उपेक्षितम् । यदि
ग्राहकत्वम् असौ स्वयं न ददाति, तदा स्थापकः प्रत्यनन्तरो वा पूर्वोक्तमार्गेण
अन्विच्छेत्, संप्रतिपन्नम् पूर्वोक्तप्रकारेण परिसाधयेत् । एतदपि स्मृतिकारैः अनुक्तम्
जह्नापि ज्ञातुं शक्यत्वात् ।”
—स्मृति-चन्द्रिका ।

Last of all, we come to *special immunities and liabilities*. The authorities first enumerate general principles, applicable to Nīkṣepa and then extend these principles to all the particular classes, subject to special modifications in case of each. We have dealt with the Atideśa passage. The special immunities and liabilities relate to the following kinds of bailment—

(1) Yācitaka, as regards the mode of return and penalty in connection with its violation ;

(2) *Silpi-Nyāsa*, as regards the special rules which relate to the natural wear and tear in operations upon the object or material—supplied or which deteriorate in operation, or one rendered useless, through fault of the artisan bailee and also in regard to rules, about the due return of the bail and penalties in their connection.

As regards *Yācitaka* (1)

The person, who takes away an object for use on some special occasion and as soon as that is finished, to return it in, has got a special liability apart from the liability of a bailee in general. The general rule about the return of bailment is that it must be “given up on single demand” “सङ्गद-याचितम् अर्पयेत् ।” *Yācitaka* forms an exception. The bailor cannot ask back, unless the use is finished. Hence the penalty in shape of payment of interest at 5 per cent. per mensem, does not attach to an object not returned on demand, but before the use is finished in case of a *Yācitaka*. Hence an exceptional proviso to the general rule—“याचमानो न दद्याद् वा वर्धते पञ्चकम् शतम्” is inserted by the same *Kātyāyana*—

“यदि तत् कार्यम् उद्दिश्य कालं परिनियम्य वा ।

याचितोऽर्धकृते तस्मिन् अप्राप्ते न तु दाप्यते ॥

Either fixing a certain period or stipulating for performance of a work, if something is given, if it is asked before, it does not carry interest. But if after the occasion arrives to return, it is not returned and it perishes by act of God or king, its substitute in value must be given, but without interest or penalty.

प्राप्ते काले कृते कार्ये न दद्याद् याचितोऽपि सन् ।

तस्मिन् नष्टे हृते वापि ग्रहीता मूल्यम् आहरेत् ॥

—कात्यायनः ।

But sometimes even before time or before use, the thing must be given up on demand. If for example the necessity for

the thing arises for the bailor owner in the meanwhile, it must be given up, as otherwise his business will suffer; and if he does not give up, he must have to pay interest (at 5 p.c.).

अथ कार्यविपत्तिस्तु तस्यैव स्वामिनो भवेत् ।

अप्राप्ते वै स्वकाले तु, दाप्यस्त्वर्ध्वकृतेऽपि तत् ॥

Smṛti-Candrikā comments—

“यदि मध्येन ददाति तदा अत्र सोदयं दाप्यः ।”

As regards realisation of Yācitaka, there is some variation from the general rule, as Sāman or conciliation finds no place, but the king may be appealed to and he with a high hand, may realise the thing and award the penalty of theft—250 paṇas.

यो याचितकमादाय न दद्यात् प्रतियाचितः ।

स निगृह्य बलाद् दाप्यो दण्डाच्च न ददाति यः ॥

—कात्यायनः ।

यो याचितमादाय न दद्यात् तत् तथाविधम् ।

स निगृह्य बलाद् दाप्यो दण्डो वा पूर्वसाहसम् ॥

—मत्स्यपुराणम् ।

But with the permission of the owner, Yācitaka may be given to another or otherwise return may be made in any manner allowed—

“याचितम् स्वाम्यनुज्ञातम् प्रददत् नापराधुयात् ।”

—बृहस्पतिः ।

“प्रददत्—अन्यस्मै”—विवादरत्नाकरः ।

“याचनात् ऊर्ध्वमपि”—स्मृतिचन्द्रिका ।

Now, as regards *Silpi-Nyāsa* (2).

The general rule is, that the act of God or king excuses. It is modified in case of *Silpi-Nyāsa*. If the artisan allows the time to expire and still the work is not finished, if the thing

perishes in the meanwhile even by the act of God, he has to pay the object's substitute in value.

“यैश्च संस्क्रियते न्यासो दिवसैः परिनिष्ठितैः ।

तदूर्ध्वं स्थापयेत् शिल्पी विनश्येत् तत् अगृह्णतः ॥”

The clothes entrusted to washermen for washing, may be old clothes treated to washing once or twice or on many occasions and may have their natural wear and tear and for that any resulting damage or destruction will not entail responsibility. But if the brand new cloth perishes, through washerman's carelessness or through his deliberate or reckless fault in hitting upon a hard substance for the purpose of cleansing, he will be responsible. The general rule, as follows therefore, is here slightly modified.

न्यामदोषाद् विनाशः स्यात् शिल्पिनं तं न दापयेत् ।

दापयेत् शिल्पिदोषात् तत् संस्कारार्थम् यदर्पितम् ॥

—कात्यायनः ।

This is a proviso to the general rule :—

“यस्य दोषेण यत् किञ्चिद् विनश्येत क्लियेत वा ।

तद्वस्तु सोदयं दाप्यं दैवराजहताद् विना ॥”

Now the price for new cloth has to be realised. What should be the price? In such a case, price should be realised in this way from a bailee washerman in fault :—

Eighth part of the value goes, when the cloth is once washed up, one fourth, when it is twice, one third, when it is three times done, one half, when it is four times done and then goes on declining by a quarter, when it is washed for more times than four. Bearing in mind this standard of natural wear and tear for a piece of cloth, the value payable by the washerman in fault has to be ascertained. The precaution is prescribed that washing must be done on stone-slab, drying operations must be done on smooth timber and at night must not be kept mixed up with

other clothes at one's own house. These precautions not being taken indicate negligence (उपेक्षा).

मूल्याष्टभागो ह्येत सक्कडौतस्य वाससः ।

द्विपादस्त्रिस्तृतीयांश्चतुर्थीतिऽर्द्धमेव च ॥

शास्त्रले फलके स्रक्ष्यो निज्यात् वासांसि नेजकः ।

न च वासांसि वासोभिर्निर्हरेन्न च वासयेत् । (मनुः)

Yājñavalkya prescribes penalties for the washerman who wears the clothes entrusted :—

“वसानस्त्रोन् पणान् दण्ड्यो नेजकस्तु पराशुकम् ।

विक्रयावक्रयाधानयाचितेषु पणान् दश ॥”

The washerman is fined three panas, if he wears the cloth, if he sells it or hires it on fee or pledges it with another and gives it to another for gratuitous use, he is fined ten panas.

As regards the natural wear and tear of gold, silver and other materials, that are entrusted for preparation of finished products, silver, when heated, naturally loses, two palas in hundred, gold does not so lose anything, lead loses eight times its value, copper five times and iron ten times. On the other hand the yarns of Kapok and wool swell ten times of ordinary grade—five times, middling and three times, the fine grade. The works on embroideries on clothes or canvass, (कार्मिके) in woollen yarn, naturally lose thirty in hundred palas but in silk or bark, there is no loss by operation.

Bearing these rules in mind the objects lost have to be valued for the bailee in fault.

“अग्नौ सुवर्णमक्षीणम् रजते द्विपलं शते ।

अष्टौ त्रयुणि सीसे च ताम्बे पञ्च दशायसि ॥

शते दशपला वृद्धिः क्षीर्णे कार्पाससूत्रके ।

मध्ये पञ्चपला वृद्धिः सूत्रे तु त्रिपला मताः ॥

कार्मिके रोमबन्धे च त्रिंशद्भागो क्षयो मतः ।

न क्षयो न च वृद्धिश्च कौशियवल्कलेषु च ॥ (याज्ञवल्क्यः)

As regards weavers, the yarn that is given must be carefully used and even for slight neglect either when the full cloth is woven out or when half or part work is done, some yarn is spoiled, the weaver himself is to find the cost.

“यत्र तत्त्वादि वस्त्राद्यर्थम् कुविन्दादौ न्यस्तम्, खण्डपटादिदशायां नष्टम्, परिपूर्णदशायां वा, कुविन्दादिना दीयमानं स्वामिना न गृह्येतम् पश्चात् नष्टम् तत्रापि आह मनुकात्यायनौ”—

“स्वल्पेनापि च यन्नष्टं नष्टं चेद् भृतकस्य तत् ।

पर्याप्तं दिव्यस्तस्य विनश्येत् तदगृह्यतः ॥”—वीरमित्रोदयः ।

The latter half of the passage, relates to the bailor not accepting the offered finished cloth and then its destruction, for which the weaver is not responsible, the loss is yarn-owner's.

Vivāda-Ratnākara explains the passage as referring to artisans in general and not to weavers alone, that the artisan slightly even violating the stipulation is answerable, but after offer of finished product, he is not, if there is destruction.

“यत् भृतकस्य स्वाम्यपेक्षितकर्मविरुद्धक्रियया विनष्टम् तत् व्यवस्थापित-
कालापेक्षया स्वल्पेनापि कालेन स्वामिनो भृतकेन दातव्यम् । तथा निर्वाहिता-
पेक्षितसंस्कारं वस्तु (निर्वाहितान्वादिकम् वस्तु) यत् भृतकः स्वामिने सम-
र्पयति, तच्च स्वामी न गृह्णाति तत् दैवदोषात् विनष्टम् भृतकेन स्वामिने न दातव्यम्
इत्यर्थः ।”

CHAPTER. III

Law of Pledges and Bailments as dealt with in Kauṭilya's Arthaśāstra.

The subject of Pledges and Bailments as treated in Kauṭilya's Arthaśāstra needs a separate notice because of its own peculiar mode of treatment of the thing, as well as for its dwelling upon certain topics peculiar to this book, and secondly because, it is the type of Arthaśāstras on a comprehensive scale yet available to us.

In the first place, it is to be observed, that Arthaśāstras and Dharmaśāstras alike deal with Vyavahāra or secular law, as a part and parcel of Rājadharmā, which is the common topic between them. The Arthaśāstra, further in this respect follows the traditional arrangement in beginning with R̥ṇadānam, and aupanidhikam comes second in order, in which Chapter, is compressed the entire collection dealing with Pledges and Bailments. It is in the twelfth chapter in its third adhikaraṇa. The total number of rules is 69. They deal with (a) Upanidhi, (b) Ādhi, (c) Ādeśa, (d) Anvādhi, (e) Yācitaka, (f) Avakṛtaka, (g) Vaiāprtyavikraya, (h) Nikṣepa.

Of these topics, the author makes Upanidhi, as the representative for his own limited purpose, which runs as the guiding thread through the Collection. That purpose is to emphasise the aspect of duties and liabilities of the Pledgee or the bailee, above any other aspect. In this Chapter therefore, the author's task has been simply to pick up particular circumstances only which will either land the pledgee or the bailee in safety land of immunity and privilege, or throw him overboard into the perilous strand of fines, forfeitures and criminal liabilities. For this paramount

Upanidhi as representative type for the purpose of collection:

purpose therefore, he takes Upanidhi as the type. The incidents of this type are to be understood as applied to others, and therefore left unsaid in case of them as unnecessary, being already said in case of Upanidhi, only the peculiar incidents of each other topic being particularised under those respective heads, as not covered by previously formulated generalisations under Upanidhi. The common refrain at the end of each chapter therefore, runs thus—“शेषम् उपनिधिना व्याख्यातम् ।”

Bearing this principle in mind, we shall go on further with Kaṭilya's description.

In the first place the *mode of realisation of these pledges and bailments is the same* as the mode of realisation of debts, akin to the political steps—‘साम’, ‘दानम्’, ‘दण्डः’, ‘भेदः’ which he has already recounted—hence he premises the whole subject with the remark “उपनिधिः ऋणेन व्याख्यातः ।”

The term *Upanidhi*, is not defined by the author.

First he notices, under this head, *all vis Major*, which, puts an end to the responsibility of the bailee, not himself being in fault or negligent. Unlike the Dharma-Sāstras, these are set at great length, probably the most common recognised occurrences of these times—such as destruction of forts and whole lands by enemies or wild tribes attack of whole villages or merchant guilds, with whom transactions are usually made, by foreign invasions—villages being destroyed by fire or flood or there being complete shipwreck of cargo or only partial restoration, which in legal parlance amounts to constructive total loss or deposittee or pledgee being attacked and robbed of everything by highway men—“परचक्राटविकाभ्याम् दुर्गराष्ट्रविलोपे वा, प्रतिरोधकैः वा ग्रामसार्थव्रजविलोपे चक्रयुक्ते नाशे वा, ग्राममध्याग्न्यादकाबाधे वा, किञ्चित् अमोक्ष्यमाणे एकदेशमुक्तद्रव्ये वा, नावि निमग्नयाम् सुषितायाम् स्वयमुपारुद्धो नोपनिधिमभ्यावहेत् ।” In fact all kinds of sudden catastrophies and calamities find a place here. The bail

shall not be given also to one, who has died not leaving heirs.

“प्रेतं व्यसनगतं वा न उपनिधिम् अभ्यावहेत् ।”

It is a rule that objects deposited are not to be appropriated or used up by the bailee. If he does so, he must pay a hire fee commensurate with the use in addition to a fine of twelve panas. But in course of using, if it is lost or destroyed or otherwise is removed, the fine is raised to twenty-four panas.

Misuse of bail.

The object of bail is not to be mortgaged, sold or squandered away, otherwise, four times are to be restored, in addition to a fifth part going to the king as fine—but in exchanging or missing otherwise, one is to pay only the price.

“उपनिधिभोक्ता देशकालानुरूपं भोगवेतनं दद्यात् । हादशपणं च दण्डम् । उपभोगनिमित्तं नष्टं विनष्टं वा अभ्यावहेत्, चतुर्विंशतिपणश्च दण्डः । अन्यथा वा निष्पतने । आधान-विक्रयापव्ययनेषु चास्य चतुर्गण-पञ्चवन्धो दण्डः । परिवर्त्तने निष्पतने वा मूल्यसमः ।

Cf. ante, Chapter II, p. 69.

This finishes Upanidhi, and Ādhi or pledge begins.

Ādhi.

Kautilya does not define Ādhi also or as we come to them any other variety but simply notes their incidents and peculiarities that go to serve his limited purpose. As regards Ādhi—loss, appropriation, sale, re-pledging and misappropriation cause the same expenses, penalties and forfeitures as they are in case of Upanidhi. Then the familiar rule of absence of extinction of pledgee's right in case of a usufructuary pledge, is noticed; on the other hand non-usufructuary pledge without special stipulation or permission, can be extinguished and its value may enhance, according to market rate when time comes for final adjustment but interest is not to be paid in case “अनुपकाराधि” with such stipulation, is not used by creditor if it is not debtor's fault—

तेन आधिप्रणाशोपभोगविक्रयाधानापहाराः व्याख्याताः । नाधिः सोपकारः
सीदेत् । न चास्य मूल्यं वर्धेत । निरूपकारः सीदेत् मूल्यं चास्य वर्धेत, अन्यत्र
निसर्गात् । (निसर्गात् इति किम् ?—“प्रणाशनिमित्तम् धनहैगुण्यं प्रति
हेतुभूतायाः वृद्धेः तत्र अभावात् ।”)

Cf. ante “how pledge can be redeemed,” p. 32, Chapter I.

When pledgor tenders the matured payment, refusal entails
12 panas fine. In case of hypothecatory
pledges, maturing, in absence of the pledgee,
in presence of mejliss of the elders of the
village, the pledge may be delivered to sale in
market overt and sale proceeds go to meet the debt. Or, without
accrual of further interest, it may remain in custody with a
notional price fixed. In case, the creditor remains present,
fearing any future damages or destruction, the pledge at its
maturity may, instead of further detention with price fixed upon
it, may be sold then and there, or the advice of the guarantor
of the pledge (आधिपालः) may be followed in the circumstances.
Vide—

. उपस्थितस्य आधिम् अप्रयच्छतः द्वादशपणो दण्डः । प्रयोजकासन्निधाने
वा ग्रामवृद्धेषु स्थापयित्वा निष्क्रयम् आधिम् प्रतिपद्येत । निवृत्तवृद्धिको वा
आधिः तत् कालकृतमूल्यः तत्रैव अवतिष्ठेत, अनाशविनाशकरणाधिष्ठितो वा ।
धारणकसन्निधाने वा विनाशभयात् उद्गतार्धं धर्मस्य अनुज्ञातो विक्रीणीत,
आधिपालप्रत्ययो वा ।”

Cf. Chapter I, p. 36.

As regards immovables, labour is to be spent upon some, in
order to enjoy, as land by cultivation of fruits are to be consumed
which are already there, as orchards—

“स्वावरस्तु प्रयासभोग्यः फलभोग्यो वा ।”

In such a case, the intended investment is to be fully
appraised and with allowance for costs, without deterioration, the
thing is to be restored at maturity.

“प्रक्षेपद्विमुल्यशुद्धम् आजीवम् अमूल्यक्षयेण उपनयेत् ।”

Where there is no stipulation for appropriation on account of interest, the pledge, usufructuary or otherwise, is to be restored, according to its value.

“अनिसृष्टोपभोक्ता मूल्यशुद्धम् आजीवम् बन्धं च दद्यात् ।”

Cf. p. 40—“how pledges, can be redeemed”—Chapter I.

By Ādeśa, is ordinarily meant what is called in vernacular, Ādeśa and Anvādhī. “वरात्” । When a thing is handed down to a bearer to deliver to a third person, it is called Ādeśa. We have already seen, that this has been termed Anvādhī in the Dharmaśāstras. Anvādhī here means, an object which is deposited for being carried over a distance so, indeed T. Ganapati Sastri in his Trivandrum Edition says in his comment.

“अन्यस्मै दीयताम् इति तदन्यस्य हस्ते अर्पितम् आदेशः । एतावत् अध्वान्तरं वक्षित्वा देहि इति अन्वाधिः ।”

Cf. p. 56, Chapter II.

The mode of return of pledge and penalties and fines and forfeitures are also extended in case of Ādeśa and Anvādhī.

In case of *vis major*, in addition to the catastrophies enumerated in case of Upanidhi, there are some special circumstances noted in loss of Anvādhī—namely in case of the thieves stealing on the way or otherwise the thing stepping out of the hands of carrying merchant or in between the distance or time, the death taking place of the holder, there is no responsibility, even as against heirs—

“सार्थेन अन्वाधिहस्तो वा प्रदिष्टां भूमिम् अप्राप्तः चौरैः भग्नः उत्सृष्टो वा न अन्वाधिम् अध्यावहेत् ।”

Yāchitaka, means, what is gratuitous bailment and *Avakṛtaka*, what is taken for hire. Dharmaśāstras noticed include Avakṛtaka in the term “वैश्यद्वत्यर्पितम्.” Gautama also

says—"अवक्रीताधयः ।"—Cited Chap. II, p. 78. Cf. also, Yājñavalkya, cited p. 86, Chapter II.

Only two rules are mentioned specifically in their case,—first, they are to be returned in tact and secondly instances of *vis major* in shape of depredations by wild animals, etc., (भेषः) or destruction or confiscation by international law, (देशकालोपरोधि) or plunder by robbers (उपनिपातम्) are sufficient excuses for non-delivery.

"याचितकम् अवक्रीतकम् वा यथाविधं गृह्णीयुः. तथाविधम् एव अर्पयेयुः । भेषोपनिपाताभ्याम् देशकालोपरोधि दत्तं नष्टं विनष्टं वा नाभ्यावहेयुः ।"

Cf. *ante*, Chapter II, p. 83.

(The term अवक्रीतम् or अवक्रयः seems to be regarded, as the name implies a kind of conditional sale—Cf. Chapter II, p. 6).

"वैयापृत्यविक्रयः" is popularly what is called sale by "Beparis."

व्यापृत्या जीवति इति व्यापृति + अण्, वैयापृतः (उभयपदद्वया साधितम्) तस्य भावः वैयापृत्यम् तेन विक्रयः इति ।

Great store-keepers or wholesale dealers, sometimes allot their goods to the custody of several retail dealers, who must keep regular accounts of them and restore the profits minus the brokerage.

They are to follow strictly the instructions. If so, no blame attaches to them in case of loss—

यथा सम्भाषितं वा विक्रीणाना न उभयम् (मूल्यं लाभं च) अधिगच्छेयुः ।"

They are not liable for natural wear and tear or for fluctuation of market at the time and place at which they are asked to sell—

"मूल्यम् एव दद्युः । अर्धपतने वा परिहीणम्, यथापरिहीणं मूल्यम् जनं दद्युः ।"

If they transgress the instructions about time and place, they are to supply back not the actual receipts but the receipts which would have accrued, had they carried out the instructions.

“देशकालातिपातने वा परिहीणम् सम्प्रदानकालिकेन अर्धेन मूल्यम् उदयं च दद्युः ।”

The additional *vis major* in case of “वैयापृत्यविक्रयः” besides those enumerated in case of *Upanidhi*, are these :—destruction or loss caused by deposit with warehouse-men or people in confidence of both the parties or among people who are not disapproved by law,—which connotes due care and does not cause liability of supplying even the cost price. But time and place directed for sale must be strictly attended to.

“सांख्यवहारिकेषु वा प्रात्ययिकेषु अराजवाच्येषु भेषोपनिपाताभ्याम् नष्टं विनष्टं वा मूल्यम् अपि न दद्युः । देशकालान्तरितानां तु पण्यानां क्षयव्यय-विशुद्धम् मूल्यम् उदयं च दद्युः ।”

If the wholesale dealer depositor be a trading guild or corporation, the receipts of the depositor thus available must be paid severally to all members—“पण्यसमवायानां च प्रत्यंशम् ।”

This “वैयापृत्यविक्रयः” thus is peculiarly noted in this *Arthasāstra* as a kind of trade deposit and the law laid down here accords—admirably with natural justice and common sense. The term, may be very appositely described as a form of “वैश्यवृत्त्यपितम्” of other writers, who explain as we have seen, the term as “वैश्यवृत्तये वाणिज्यार्थम् अर्पितम् इति ।”

Nikṣepa, the last variety noted is here applied to denote what is *ग्रन्थिन्यासः* of the *Dharmaśāstras*, and not the general name of the deposit or an ordinary deposit with number and character specially noted. Cf. ‘*Nikṣepa*’ in Chapter II.

The artisans are generally *Sūdras*, impure or outcastes. They are their own standard of probity. “निक्षेपारश्च प्रमाणम्”. They do not generally keep their word and it is a problem, how to cope with their rather frequent faithlessness. These persons, as they belong to a very low order, may prove faithless and in order to ferret out the goods entrusted to them, witnesses or spies among their own folk are to be set after them, that they

may bring out their inner counsel and detect the goods; or, the depositor may himself try to bring out their inner counsel, by mixing among them as their own, in their drinking wassails by pledging the cup of friendship.

निक्षेपपहारे पूर्वापदानं निक्षेपारथं प्रमाणम् । अशुचयो हि कारवः ।
नैषां कारणपूर्वीं निक्षेपधर्मः । कारणहीनम् निक्षेपम् अपव्ययमानम्, गूढभित्तिनः
तान् साक्षिणः निक्षेप्ता रहस्यप्रणिपातेन प्रज्ञापयेत्, वनान्ते वा मद्यप्रहवण
विश्वासेन ।”

(This word प्रहवणम्, Mr. T. Ganapati Sastri, notes as peculiar to Tantric Worshipper's wassail.)

“प्रहवणशब्द एव मातृकाग्रन्थेषु सर्वेषु एव पठ्यते । अधिकरणे ल्यट् ।
प्रकषणं ह्यते दोयते पानभोजनादिकम् अस्मिन् इति प्रहवणम् गोष्ठीरचनम्
उच्यते ।”

The jewellers are called Vaidehakas—a mixed caste of “क्षत्रा” and “शूद्र”. Sometimes it happens that such jewellers (मणिकाराः) mark their own ornaments and deliver these marked for certain operations to be done upon by artisans and then die without taking back their deposit. On refusal by the depositee, the severe punishment of theft which may amount to death, may be inflicted upon the depositee, if the son or the brother or other near relative of depositor demands of him as directed by the deceased.

“रहसि वृद्धो व्याधितो वा वैदेहकः कश्चित् क्षतलक्षणम् द्रव्यम् अस्य हस्ते
निक्षेप्य अपगच्छेत् । तस्य प्रतिदेशेन पुत्रो भ्राता वा अभिगम्य निक्षेपं याचेत्
दाने शुद्धिः । अन्यथा निक्षेपं स्वेयद्रव्यं च दद्यात् ।”

Sometimes again it is not a jeweller merchant, but, only a respectable man going on pilgrimage, keeps the thing marked for identification with such Kāru. If on demand and refusal, after his return, after a long time, he complains to the king, the severe punishment of theft is to be inflicted,

(प्रव्रज्याभिमुखो वा श्रेयः कश्चित् कृतलक्षणम् द्रव्यम् अस्य हस्ते निक्षिप्य प्रतिष्ठेत । ततः कालान्तरगतो याचेत । दाने शुचिः, अन्यथा निक्षेपं स्वीयदण्डं च दद्यात् । कृतलक्षणेन द्रव्येण प्रत्यानयेत् एनम् ।) Cf. “प्रोषितनिक्षिप्त” ।

Again, the king's officers sometimes extort by threatening from the innocent and simple village folk and in order to get rid of this obstruction, these persons sometimes fly away by cover of darkness of night casting their all with such Kārus. Or on demand and refusal, such officers being indignant cast their victims into prison, when they do not know, that the treasures of their victims have been already thrown with a trusted Kāru. If in such circumstances, liability on these secret deposits is sought to be avoided, the offenders must get the sentence appropriate to theft.

वालिशजातीयो वा रात्रौ राजदायिकाङ्गणभीतो सारम् अस्य हस्ते निक्षिप्य अपगच्छेत् । स एनं बन्धनागारगतो याचेत । (बन्धुना अगारगतः—Jolly's Punjab Edition.) दाने शुचिः । अन्यथा निक्षेपं स्वीयदण्डं च दद्यात् । ”

Cf. deposit of assets of Rākṣasa, with Candanadāsa and Cānakya's threatening the latter in the Drama Mudrārākṣasa.

In fact in case of such secret deposits “निक्षेपः” denials are so frequent that well-known strings of rules have cropped up to ascertain the truth in such a case. These rules are to be applied also in case of denials in secretly incurred debts, secret marriage such as Gandharva form of marriage, etc. The author ends here with nothing more than a general instruction in such a case, namely that the king must call fit witnesses, and considering time and place, form mark, quality and quantity—do the right justice.

अभिज्ञानेन चास्य गृहे जनम् उभयं याचेत । अन्यतरादाने यथोक्तं पुरस्तात् । द्रव्यभोगानाम् आगमं चास्य अनु युञ्जीत । तस्य चार्थस्य व्यवहारो-पलिंगनम् अभियोक्तुश्च अर्थसामर्थ्यम् । एतेन मिथः समवायो व्याख्यातः ।

निक्षेपापलापोक्तविधानदिशा रहस्यदण्डदानगाम्भर्वविवाहाद्युपलापेषु अपि
सत्यासत्यनिर्णयोपाय जहनीयः इत्याह—तस्मात् साक्षिमतं अच्छन्नम् कुर्यात्
सम्यक् विभाषितम् । स्वे परे वा जनेकार्यं देशकालाग्रवर्णतः इति ।”

Cf. Deposit of Ring by King Dushyanta with Sakuntala.

It is interesting to note that the standpoint of a practical lawyer, not the standpoint of a jurist, appeals to Kautilya. The author troubles his brain only on two points, how to meet the problem of recovery from a dishonest pledgee or bailee and secondly how to adjust the rights of the parties, when one has apparently gone against the stipulations or departed from well-known usages or has been subject to freaks of fortune for which he is not to blame. His treatment amounts to assortment of all sorts of transactions, of heterogeneous juristic conception, strange bed fellows, whose common features only as regards these two points, he attempts to record. He does not mean to define any of these concepts. But he introduces a different variety—“वैयापृत्यविक्रयः” and two new terms, one called Adesa, which is a form of a modern “bill to order” and the other, Nikshepa, which though otherwise a familiar name, he makes quite novel by ascribing a novel meaning to it,—namely, all sorts of secret deposits, inclusive of what by others is called “शिल्पिन्यासः.”

APPENDIX I

The Earliest Literature as bearing on the Ancient Law of Pledges and Bailments.

In foregoing discussions, we have fully drawn upon the metrical Dharmasastras. The question may now arise, how far the alleged forerunners of the metrical Dharmasastras, namely, the Dharma Sutras or any other part of Vedic literature, deal with the present subject in their sections on Law, if they have any such sections. It will be seen that in Chapter II, in dealing with liability of sons and other custodians of a deceased bailee, we have quoted a passage from Gautama's Dharmasutra, namely, Sutra No. 39 of its twelfth chapter—

Reference to Dharmasastras in the first and second chapters.

“ निधन्वाधियाचितावक्रीताधयः नष्टा सर्वान् अनिन्दितान्पुरुषापराधेन ।”
(नाध्याभवेयुः) ।

“If without any fault of the holder, all these kinds of pledges and bailments become lost and if there is no other person to blame for the loss, not only the sons, but also all kinds of custodians and guarantors are not liable to return the bail.”

See Page 78, Chapter II.

Barring this passage of Gautama, we have not quoted so far, any other passage from the Dharmasutras, or from anywhere else, in the Vedic literature, directly bearing on our subject. We, therefore, proceed, in this Chapter, to notice all the provisions that in any way, tend to throw any light on the present topic from the literature of the Vedic period. The reason, why we have postponed referring to these passages so far, lies in the fact that the metrical Dharmasastras are full and complete in themselves,

Why no special reference to the Dharmasutras before.

and the Nibandhakaras have further clarified the subject. On the other hand, the whole range of Vedic literature, right up to the Dharmasutras, offer nothing worth considering on our subject, which may, in any way, be momentous in forming our decisions on fundamental points.

For, in the first place, the Vedic literature is predominantly sacerdotal, and in course of discussion on topics of religion and rituals, perchance there comes any stray passage remotely bearing on secular law, which again offers a fruitful source of endless controversy, as regards its true meaning and import. To speak frankly the whole field is shrouded in mysterious darkness, and if, *terra firma* of solid facts, is not to be strayed away in scientific investigation, and speculation is not to be given free rein to roam at its sweet will, it is rather risky to form any considered conclusions on any part of Civil Law, as it was in the Vedic period, and far less, in its department of contracts and torts (*vide* Macdonnell and Keith's Vedic Index, pp. 390, etc., notes on "Dharma," 1912 Ed.). It is only when we reach the Dharmasutras that anything definite is reached, but even there the materials on our present subject, are negligible.

The well-known Dharmasutras such as Baudhayana, Vasistha, Apastamba, Gautama, have been adopted as typical of the kind, which belong to the Vedic period proper. But there are Dharmasutras or treatises on Law, written in Sutra style, which the scholars say, are post-Vedic and the reason of their opinion is, that these Dharmasutras cannot be referred to any particular Vedic Sakha or Charana. For example, the Apastamba forms the twenty-eighth and twenty-ninth of the thirty sections of Apastamba Kalpasutra belonging to the Taittiriya division of Black Yajurveda, and so, is regarded as belonging to Vedic period. On the other hand, the typical Dharmasutra which cannot be thus connected with any Vedic treatise is Vishnu Sambhita, and it is therefore pronounced to be post-Vedic.

The alleged Vedic and post-Vedic Dharmasutras.

But this opinion fails to take note of the fact that the alleged Vedic Dharmasutras, as well as the post-Vedic ones contain passages both metrical and aphoristic and both matter and mode of treatment are the same, in all of them. So that, it rather appears that it is at best doubtful, in absence of any definite data, to pronounce a particular treatise, as a post-Vedic Dharmasutra, simply for the fact that it cannot be connected with any particular treatise, for, after all, it may be only a question of lost tradition. For the same reason, it is not proper to say that any Dharmasastra that is metrical, must, necessarily, be a later production, for, commonly enough, the metrical *slokas* are found in Dharmasutras also, so much so, that metrical portion in some of them is at least equal to the Sutra portion. This may be spoken as specially true of Baudhayana and Vasistha.

The ancient character of metrical Dharmasastras.

It is also a mistake to say that the Metrical Dharmasastras have developed something new out of an original condition represented by an earlier stratum. Indian mind in this respect is essentially conservative. Through lips of generations of teachers and pupils, tradition of Dharma, has been very faithfully handed down and the law of Pledge and Bailment may be said to be presented in its most pristine and unalloyed source, in these metrical Dharmasastras, specially when they are so clear, definite and unanimous and there is no reason to suppose that they were manipulations. Just as in the Middle Ages of Europe, the Clergy were the repository of all knowledge and learning, so still further in India, the Brahmins were repositories of all religion and law.

Necessity of Digression.

We indulge in this digression to make clear our viewpoint that in basing our conclusions on metrical Dharmasastras, we have indeed tapped the earliest and purest source of law. But for the sake of completeness we propose to describe any reference to the present subject in the Vedic literature.

In doing so, we must first of all briefly touch upon the mode of treatment of secular law in Dharma-
 Mode of treatment of Law in Dharma-sutras. The Dharmasutras in general, deal with Vyavahara or secular law in connection with “राजधर्मः” or duties of the King. Thus, Gautama in the 11th Chapter, Vasistha in the 16th Chapter, and Baudhayana in the 10th Chapter, deal with “राजधर्मः.” A part of व्यवहार however, comes to be discussed earlier in some, such as Vasistha and Baudhayana, namely, the topic of money-lending business, “कुसीद” such as in connection with “वर्णधर्मः” in Baudhayana, or Vasistha, 2nd Adhyaya. “कुसीद” is a part of Vaisya’s profession but the money-lender, who takes disapproved rates of interest or in other words practises usury, is condemned in very scathing terms. He is called “वार्धुषिक.”

Therefore administration of law and justice or व्यवहार, is a necessary part of kingly duties, and it is in this Vyavahara section, that any help may be found.

Now, the passages, if any, directly bearing on our subject are found, *only incidentally* or rather stray references are made in course of discussions on other matters on law. Such passages are, 16, 17, 18 in the Vasistha Dharmasutra, Chapter 19 in continuation of Chapter 16 when it alludes to nature of possessory evidence and passages 29, 32, 34 to 39 in Gautama in the twelfth Chapter, which are cited in course of discussion on administration of Criminal Law. Gautama says that the offence of theft is defined to be taking and enjoying another’s things and, to exclude this offence, in case of pledgees or bailees who transgress their duties only in certain limited circumstances, it is necessary to cite these passages by way of exceptions. “इदानीम् न्यायेनापि परद्रव्यादानम् स्तेयमेव इति तत् परिहारार्थम् इदम् आरभ्यते ।”

Texts of Vasistha run thus :—

१६। “पैतृकम् कृतम् आधेयम् अन्वाधेयं प्रतिग्रहम् यज्ञात् उपगमो वेणिः तथा धूमशिखाष्टमीति ।”

१७। “तत्र भुक्तानुभुक्तदशवर्षम् ।”

१८। अन्यथापि उदाहरन्ति—

“आधिः सीमा बालधनं निक्षेपोपनिधौ स्थितः ।

राजस्वं श्रोत्रिय द्रव्यं न संभोगिन हीयते ॥”

These passages purport to speak of limitation of actions on pledges and bailments. The passage No. 18 is also found in Narada. By themselves they are incomplete. These passages intend to point out that the King must look into lawful origin of possession and enjoyment, and ten years' open enjoyment either by oneself on one's own right, or by oneself through one's ancestors or predecessors, puts an end to the title of lawful owner. But these passages also are found in other contexts—we have noticed them at length in speaking of the subject of redemption of pledges. These passages are evidently incomplete, and to be read in conjunction with other passages of equal antiquity not cited here, but some of which are cited in Gautama.

Then turning to Gautama's passages, we have already cited passage No. 39. Passage No. 29, “भुक्ताधिः न वर्धते,” refers to absence of any special charge for interest for usufructuary pledge for usufruct is substitute of interest. This is again repeated in the term “आधिभोगश्च” in passage No. 32, “कारिताकायिकाशिखाधिभोगश्च” and Maskari comments—“आधिभोगः वृद्धयर्थमहरहः यस्मिन् वृतादिगृह्यते सा आधिभोगवृद्धिः ।” The author means to say that appropriation of such interest is theft.

Passage 34, runs thus :—

“अजडा पो गण्डधनं दशवर्षभुक्तम् परैः सन्निधौ भोक्तुः ।”

This passage also speaks of ten years' adverse possession of property of a person, who is neither minor nor idiot. There it will not be an offence of theft and lawful origin will be presumed. But this is an isolated proposition, it is to be understood with its qualifications. For, in the first place, “जड” and “पोगण्ड” are excepted; secondly, rule No. 39 is another exception, in case of the transactions of pledges and bailments, where property is vested in the heirs and legal representatives

of pledgees and bailees. Thirdly, twenty years' prescription rule is not cited, which must be understood here, *cf.* Maskari Bhasya on Gautama—

“अत्र अजङ्घनं न परिणमितम् इति चेत्, विंशतिवर्षेणापि जीर्णत्वम् माम्भूत् इति । यथाह नारदः”—प्रत्यक्ष परिभोगाच्च स्वामिनो द्विदशाः समाः । आध्यादोन्यपि जीर्यन्ते स्त्री नरेन्द्रधनात् ऋते ।” एवं च विंशतिवर्षात् वालधनं जीर्यते एव ।”

See, for fuller details, Chapter I, Redemption of Pledges.

Further exceptions to this rule of limitation that are noted are first, the character of possessor—“न श्रोत्रिय प्रव्रजित राजन्य-पुरुषैः” (35). If the possessor be learned in the Vedas or one who has renounced the world, or it is the royal officer, adverse possession will not be presumed.

“श्रोत्रियादिभिः भुज्यमानमपि नापङ्गियते । उपेक्षाकारणोपपत्तेः । श्रोत्रिय प्रव्रजितौ धर्मदृष्ट्या उपेक्षिते, राजपुरुषो भयेन इति । प्रव्रजितस्य कथम् उपपद्यते इति चेत्, अत्र उच्यते, कस्यचित् गृहस्य शून्यत्वेन स्थितस्य प्रव्रजितस्य शून्यगृहवासनोपदेशात् उपपद्यते एव ।”—मस्करि-भाष्यम् ।

Learned Brahmins or Anchorities are not opposed by people in usurpation, for pious-minded people think it unrighteous to oppose their possession of property. The officers of the State are not opposed, because, the people are afraid to interfere with them. The anchorites are neglected for additional reason—it is enjoined in the Sastras that they are to take their abode in vacant places and here there is no question in their case of hostile possession.

Secondly, it is the character of the thing enjoyed, namely, landed property or women or animals that are not capable of going out of possession according to ten years' limitation rule.

“पशुभूमिस्त्रीणाम् अनतिभोगः”—rule No. 36.

But this is to be understood as already said subject to qualifications. The word “दशवर्षभुक्तानाम्” is understood. The word भूमिः, as Maskari points out, means only open field or an

orchard—"भूमिः क्षेत्रारामादि, न गृहम्." It does not apply to house property—for Ushanas Dharmasutra says—"दशवर्षात् वेष्टनो भोक्तुः, न भूमिः." The word "स्त्री" means here female slaves or servants "परिचारिका." Hence, in these cases, usurpers are equal to theives, *vide* passages quoted elsewhere—under the head of redemption—such as Narada—

“अनागमं तु यो भुङ्क्ते वत् सराणाम् शतैः अपि ।
चोरदण्डेन तं पापं दण्डयेत् दृष्टिवीपतिः ॥”

Now the significance of these passages is in connection with the offence of theft and so far as the present subject is concerned they are relevant so far as the return of the pledge or bail is concerned. The passage “पशुभूमिस्त्रीणाम् अनतिभोगः” is useful however from another point of view. It reminds one of the essential distinctive characteristics of “भोग्याधिः” or “फलभोग्याधिः” usufructuary pledges as against “गोप्याधिः” or “अनुपकाराधिः” hypothecatory pledges with bare detention. It is to be noted that the objects of investment of these two kinds of pledges were different—this is made clear by the passage “पशुभूमिस्त्रीणाम् अनतिभोगः”—these objects were always the objects of investment of Bhogyadhi or Sopakaradhi and hence as once usufructuary pledges are always usufructuary pledges, from this point of view, also there can be no prescription against those things. *Vide* Maskari on “पशुभूमिस्त्रीणाम् अनतिभोगः ।”

“एषाम् अनतिभोगः, दशवर्षानुभवेन न स्वाभ्यम् भवति इत्यर्थः । तथाच नारदः—अनागमं तु यत् भुङ्क्ते वत्सराणाम् शतैः अपि इति । इदमपि वचनम् पशुभूमिस्त्रीविषयत्वेन व्याख्यातम् इति ।”

Cf. also, याज्ञवल्क्यः—“फलभोग्यो न नश्यति ।”

Turning now to the Apastamba and Hiranyakesi Dharmasutra, we find that just as, Gautama, in discussing the incidents of offence of theft, refers to certain aspects of the pledgees' and bailees' liabilities, Vasistha mentions the possessory evidence in connection with the subject, and Baudhayana cites the laws of

interest and usury, in connection with Varnadharmā, so also Āpastamba, in dwelling on the penal code, comes to refer to the liabilities of certain aspects of bailment that may be classed under the general heading "Vaiśyavṛttyarpitam." The relevant passages occur in the second Pṛaśna, eleventh Paṭala and twenty-eighth Khaṇḍikā. The first rule lays down, that the lessee of an agricultural land, who may be regarded as a sort of custodian for the lessor in respect of it, must not render it barren or keep it fallow or otherwise turn it incapable of producing that quality and quantity which its class justifies. If he fails in his duty, he must still be liable for the usufruct, which he should have grown with proper care and skill. Thus the rule runs :—

“क्षेत्रं परिगृह्य उत्थानाभावात् फलाभावे यः समृद्धः स भावि तदपहार्यः ।”

Haradatta comments, in his Ujjvala-vṛtti :—

“वैश्यो वैश्यवृत्तिर्वा परस्य क्षेत्रं कृष्यर्थं परिगृह्य यदि उत्थानं यत्नं कृषिविषयं न कुर्यात्, तदभावाच्च फलं न स्यात्, तत एव तस्मिन् निमित्ते कर्षकः समृद्धः चेत्, तस्मिन् भागे यत् भाविफलम् तद् अपहार्यः, अपहारयितव्यः, राज्ञा क्षेत्रस्वामिने दाप्यः ।”

The second rule is variously interpreted by Haradatta. It runs thus :—“अवशिनः कोनाशस्य कर्मन्यासे दण्डताडनम् ।” The word “अवशिनः” is capable of more than one meaning, and is thus responsible for more than one interpretation of the rule. It may mean, one who is always dependent upon another, economically a slave who is entrusted with ploughing as a labourer. Haradatta explains this by saying—“अवशिनः अस्वतन्त्रस्य निर्धनस्य दासस्य ।” It may also mean one, to whom absolute management of another's culturable field is transferred, but such custodian unlawfully delegates his personal duty to another and the loss of profits ensues, as a consequence.

The word, “अवशिनः” may also be expounded as a Bahuvrīhi compound—it may mean one who has no independent agent for culturing his field so that he is himself responsible for culturing his field and must continue the full seasonal rotation

of crops in his field, which ultimately goes to benefit his country and his king. If he discontinues, he is punishable by the king as one who has caused loss of public revenue and welfare of the state.

Thus, the whole passage refers to physical punishment by the king, of one, who has, as a labourer, taken the task of cultivating another's field, such as the *bargadar* of the present day or of one, who has been entrusted with absolute discretionary management of another's field as a free agent, but neglectfully causes loss, or who, though personally responsible as a citizen of the state, is charged with duty of growing public revenue and adding to the wealth of the state by agriculture, but omits to do so.

Let us quote the commentary of Haradatta in full :—

“कीनाशः कर्षकः । तस्यावशिनः अखतन्त्रस्य निर्धनस्य दासस्य कर्मन्यासे, स चेत् कृषिकर्म न्यसेत् विच्छिन्त्यात्, तस्य दण्डेन ताड़नं कर्तव्यम्, स दण्डेन ताड़यितव्यः । अर्थाभावात् न अर्थदण्डः । अपर आह,—अवशी अवश्यः, अविधेयः । यदि क्षेत्रं परिगृह्य अवशिनः कृषिकर्म न्यसेत् न स्वयं कुर्यात् तदा स परिग्राहको दण्डेन ताड्य इति । यदि वा अवशिनः इति बहुव्रीहिः— यस्य कीनाशस्य वशी स्वतन्त्र-क्षेत्रवान् नास्ति स यदि पूर्वकृष्टस्य क्षेत्रस्य कृषिकर्म न्यसेत् तस्य ताड़नं दण्डः इति राजपुरुषस्योपदेशः ।”

The comment “अर्थाभावात् न अर्थदण्डः” is significant. A day-labourer has no money, so he cannot be fined; hence penal liabilities must be substituted for fines in his case; of other people, who are above the status of serfs, penal liability is spoken of, for graver liabilities, where fines are not adequate. In this connection, a remarkable passage, illustrating the same line of thought, from Objects and Reasons on Master and Servants Bill, in the report of the Indian Law Commission, 1879, may be usefully referred to :—“But breaches of contract seem proper subjects for penal legislation, when committed by persons from whom it is impossible to recover damages.”

The principle of second rule is extended to the third rule, which runs thus :—

“तथा पशुपस्य ।”

The cattle keeper, must take good care of his charge, otherwise he is also similarly to be physically sentenced. His position is also assimilated to the agricultural labourer in the preceding rule.

Haradatta comments :—

“पशुपो गोपालः । तस्यापि कर्मन्यासे पालनाकरणे दण्डेन ताडनं दण्डः ।”

Besides physical chastisement, he may be also deprived of his wages, by taking away from him his charge and placing the cattle under the care of another : this is spoken to by the fourth rule :—

“अवरोधनं चास्य पशूनाम् ।”

Haradatta comments :—

“ये चास्य पशवो रक्षणाय समर्पिताः, तेषां चावरोधनम् अवरोधनम् कतव्यम् । अपहरणम् कर्तव्यम् । अन्यस्य गोपस्य समर्पणीया इति ।”

The cattle-keeper's duty to keep the cattle away from another's field is implied in the fifth rule, which speaks of another's cattle, to be captured and starved by the field owner, if straying into the field, but punishment must not be too much starvation, so that the cattle may perish. The fifth rule is as follows :—

“हित्वा (भित्त्वा) व्रजम् आदिनः कर्शयेत् पशून्, नातिपादयेत् ।”

Haradatta comments as follows :—

“ये पशवो व्रजे निरुद्धाः तं हित्वा सस्यादेः भक्षयितारः भवन्ति, तान् कर्शयेत्, बन्धादिना क्लेशान् कुर्यात् । कः ?—यत् भक्षितं तद्वान्, राजपुरुषो वा, नातिपादयेत्, नातिरोधं कुर्यात्, न ताडयेत् वा इति ।”

By the words “राजपुरुषो वा” Haradatta means to say that there were public cattle folds, where king's servants watched over the confined straying cattle. The phrase “न ताडयेत् वा” indicates that the cattle were not to be tortured or beaten, but

to be simply confined for a reasonable number of days without food, for the master to come up in search for his flock, the sin of the master being visited upon the head of the ward.

The sixth rule refers to the cattle-keeper's duty in this respect, and if he allows the cattle to stray into dangerous spots, so that they may perish or be killed, apart from his liability to being chastised, he must make good cattle of same quality or, instead of this, price of the lost cattle.

The sixth rule is as follows :—

“अवरुध्य पशून् मारणे नाशने वा स्वामिभ्योऽवसृजेत् ।”

The comment by Haradatta is as follows :—

“यदि पुरुषः पशून् अवरुध्य, पालयितुम् गृह्णीत्वा भयस्थाने विवृज्य उपेक्षया मारयेत् नाशयेत् वा, नाशनम् चोरादिभिः अपहरणम्, स स्वामिभ्यः पशून् अवसृजेत् प्रत्यर्पयेत्, पश्वभावे मूल्यम् ।”

There were also public custodians of stray cattle which were allowed by the rural folk, to roam and pasture in the outlying forests. There were forest keepers, whose duty it was to restore the cattle to the neglectful rural people allowing their cattle to stray into deep trackless forests. The seventh rule which refers to this fact runs as follows :—

“प्रमादात् अरण्ये पशून् उत्सृष्टान् दृष्ट्वा ग्रामम् आनीय स्वामिभ्यः अवसृजेत् ।”

The comment of Haradatta is as follows :—

“यदि स्वामिनः प्रमादात् अरण्ये पशून् सृजेयुः विना पालनेन, ततः तान् दृष्ट्वा ग्रामम् आनीय स्वामिभ्यः अर्पयेत् । कः ?—यः तत्र राज्ञा रक्षकत्वेन नियुक्तः ।”

But if this offence is repeated for the second time, as a punishment for this second repetition, there must be, before delivery, one period's confinement in the fold. This is referred to, by the eighth rule :—

“पुनः प्रमादे सक्तत् अवरुध्य ।”

The comment is as follows :—

“पुनः प्रमादात् उत्सृष्टेषु सङ्गत् अवबध्य स्वामिभ्यः अवसृजेत् ।”

But more than second such offence, on the part of the villager allowing his charge to stray into the forest, completely exonerates the forest-keeper from restoring the cattle. This is laid down by the ninth rule :—

“ततः ऊर्ध्वं न सूक्ष्मेत् ।”

The comment runs :—

“ततः द्वितीयात् प्रयोगात् ऊर्ध्वम् ग्रामम् आनीय इत्यादि यत् उक्तम् तत् न सूक्ष्मेत्, न आद्रियेत, तस्मिन् विषये उपेक्षेत ।”

The rest of the rules in this section are not referred to, as not bearing on our subject. It is remarkable that Āpastamba strikes one as legislator and lawgiver of a pastoral and agricultural people and only those kinds of bailment are referred to, that would be most prevalent among an agricultural and cattle rearing community, just as Kautilya's treatment of the subject indicates legislation predominantly for a trading community, as seen in Chapter III. In fact, the mode of treatment of each author here reflects his own views of the matter. One common fact emerges, that they did not *seriatim* take up discussion of eighteen heads of law, for secular law in their treatment occupied only a secondary place, whereas the sacerdotal and religious law did the primary, and hence our subject in these books is only of an incidental nature.

APPENDIX II

The Ancient Hindu Code of Pledges and Bailments in outline

PART I—DEFINITIONS

1. The term 'PLEDGE' denotes : an interest, secured upon property, moveable and immoveable, to safeguard payment, in money or kind, of a loan, with or without delivery of possession of the said property to the creditor,

and in the case of such delivery of possession, with or without a stipulation, in favour of the creditor, to consume, in an appropriate manner, the usufruct of the said property, towards payment of interest or payment of principal or payment of both (*vide* Narada 124, 125). The debtor in such a case is called Pledgor, and the creditor, Pledgee.

2. The term 'BAILMENT' denotes : delivery or deposit of a certain article, to another, for safe keeping, with or without any kind of use or operation thereupon, pending demand back, on certain terms as to time and place, regarding the demand back, such delivery being solely based upon feeling of personal confidence; provided that the term 'Bailment', so defined, may take the following usual forms :—

(a) delivery of a deposit in a sealed cover called *Upanidhi*, without letting the depositee know its nature and contents, the sealed cover to be retained and returned intact as it was originally taken, as the time comes —(Bṛhaspati);

(b) removing one's property to another's house in secret, to protect it against others, called *Nyāsa*—(Vyāsa and Bṛhaspati);

(c) delivery of an object to a bearer, for carrying to another person and delivering it to him, according to the sender's instructions, called *Anvādhī* by all except Cāṇakya, who designates it as *Ādeśa*, confining the term *Anvādhī* to delivery of a thing to be carried over a certain considerable distance (see Kātyāyana);

(d) delivery of a deposit by the creditor and the debtor to one another (Vivāda-Ratnākara), or delivery with a stipulation to re-deliver to another (Vyavahāra-Mayūkha), called *Pratinyāsa* in each case;

(e) *Yācitaka*, or delivery of an article, for use without fee, to re-deliver intact immediately after use;

(f) delivery of an article, for use by payment of a certain fee, called *Avakṛitaka* by Cāṇakya and Gautama, and included in the term *Vaiśyavṛttyarpita* by other writers;

(g) delivery of an article, to one for safe-keeping, with the article properly marked and identified to the keeper, called *Nikṣepa*, a variety of which is “प्रोषितनिक्षिप्त” and in which term Cāṇakya also includes what, by others, is called *Silpinyāsa*, delivery of valuable articles to Karus or artisans, such as jewels, ornaments, for work upon them for a certain fee;

(h) delivery of things for sale, to retail dealers, on a commission or brokerage, by wholesale stockers, noticed only by Cāṇakya (*Vaiyāpṛtyavikraya*), but may be included in the term *Vaiśyavṛttyarpita* of other writers;

In this code, the deliverer of deposit is called Bailor and the deposittee the Bailee.

PART II—MUTUAL RIGHTS AND DUTIES OF THE

(a) PLEDGOR AND THE PLEDGEE, (b) BAILOR AND BAILEE PENDING DEMAND BACK

3. The Pledgor shall promptly deliver possession, where possession is necessary, and if in face of stipulation for delivery,

he dishonestly delivers it in pledge to another, or sells it to a third person, or secrets it in any way, he shall be punished as a thief.

The same measure equally applies to parties to a bailment.

4. The Pledgee shall keep the Pledge, as carefully as he does his own property, and it shall be presumed, in case the Pledge perishes along with his own articles, in sudden catastrophes, natural calamities or accidents, over which he has no control, or which he can not foresee, and so be unable to provide against, that he has taken utmost care of the Pledge, and he shall not be liable for the loss, and the Pledgor shall not be entitled, in such a case, to demand return—the said sudden catastrophes being, among others, specially the following :—

(i) Destruction of the state by foreign invasions and consequential destruction of private property :

(ii) destruction of entire wealth and cattle of the countryside by robbers and plunderers;

(iii) decimation of entire rural area, by conflagration or by inundation ;

(iv) such destruction or decimation as those referred to in (ii) and (iii), if not completely, at least partially destroying all private property, the remains being so damaged as to become of negligible value, which would amount to constructive total loss in legal parlance (Cāṇakya—passage I—*Aupanidhika*) ;

Provided that, according to Cāṇakya, in addition to these, loss by thefts and robberies on the way, or death on the way of the Pledgee, is such a special accident, peculiarly in case of *Ādeśa* and *Anvādhi*; depredations by wild animals, plunders and confiscation by international law and custom are peculiar accidents to *Yācitaka* and *Avakrītaka*, and faithlessness is common occurrence to Karus-depositees, and also provided that all those general provisions, detailed in Section 4, specially in clauses (i) to (iv), in case of Pledges, shall equally and to the same spirit and tenor apply to the parties to any transaction of Bailment ;

provided further that, according to Cānakya, *Vaiyāpr̥tya-vikraya* has a special immunity attached to it, in case the retail trader deposits his keep in persons or repositories, whom he has no reason to suppose to be disloyal or treacherous, or in receptacles or warehouses, which he feels proof against every mishap.

5. The Pledgee shall strictly abide by the terms on which he holds the Pledge, and that where he is merely to detain it, he shall not appropriate its usufruct, and that where he is to consume the usufruct, he shall not make violent or destructive use of it. (See p. 40, Ch. I.)

6. Any wilful violation or forcible seizure, in face of stipulation against use of Pledge, of any portion, however small, shall entail forfeiture of entire interest. (See p. 37, Ch. I.)

7. Any wilful violation or forcible seizure, of a great or considerable portion, in face of stipulation against use of Pledge, shall entail forfeiture of not only interest but also principal, in appropriate circumstances according to the judge's discretion.

8. Any surreptitious violation or consumption of a Pledge, to be barely detained as a lien, shall stop further interest running. (See p. 36, Ch. I.)

PART III—THE RETURN

9. The Bailment shall be returned exactly in the same way as it was taken, and so shall the Pledge, taking care, where the Bailment is a sealed cover, to return it intact, and where the owner himself is available or alive or can be found, the thing shall be delivered to him personally ; otherwise the heir shall be called in and be given back the deposit. (See p. 64, Ch. II.)

10. The Pledge falling deficient in value, through natural wear and tear, shall be restored to its value, by addition or by substitution of a new Pledge, or the creditor may at once demand the loan, for which the Pledge was advanced.

11. The Pledgee shall find out the Pledgor, as the time comes for payment, and must either sell the pledge, keeping the sale proceeds in deposit without further interest, or shall keep the pledge in proper custody pending arrival of Pledgor.

12. The duties of the Pledgee in Section 11, shall apply to a Pledgor, who has the control of the Pledge in absence of the Pledgee, when the time comes for payment.

13. The Pledgee may, if the Pledgor be dead, ask the Pledgor's lawful heir, or existing kinsmen, to take back the Pledge and pay up the loan, and if they do not agree, to pledge or sell the pledge to another, but this will on no account carry further interest.

14. If the Pledgee refuses to deliver the Pledge or, otherwise frivolously or fraudulently puts the Pledgor off, or fabricates a false document of Pledge, he shall be punished with sentence appropriate to theft.

15. The sons and other heirs are lawfully bound to pay up the debt and take back the Pledge and may demand back from the Pledgee, and if he refuses, he shall be punished with theft, save in case of immunities detailed in Section 4.

16. The provisions of Section 15 are extended to bailees' heirs and kinsmen.

17. The value of the Pledge which is usufructuary, is constant, but lien always fluctuates in value, and as soon as the debt reaches maximum interest, the creditor, without further waiting, may either foreclose or sell the lien after fourteen days' grace in case of gold and ten days in case of other debts from matured date or, in case of stipulations, follow these stipulations, as regards further disposal ;

provided that maximum interest on gold is reached, when interest is double the principal, that on female cattle, when child is born, and that on corn, when interest is thrice, and that on garments, when the interest grows four times, and in other cases, according to contractual customary rates.

18. In following cases, Pledge is never forfeited :—

- (a) when it is a usufructuary pledge ;
- (b) when there are special stipulations to the contrary ;
- (c) when the Pledge is more valuable than the debt itself ;

but nothing in this section shall affect the provisions of Section 24.

19. In case of Section 18 (c), the full stipulated investment being realised, the balance of the sale proceeds must be restored to the owner, or the lien is to be given up on payment of the debt, but in such a case, there shall never be any foreclosure.

20. In ordinary liens, there may always be a sale, but foreclosure is the ordinary rule.

21. Ten days' grace must be allowed, to repay the debt, to the heirs of a deceased Pledgee, after request to them to meet the debt, in case sale is intended.

22. There is always a personal covenant to pay the debt on what is called “चरित्रबन्धक” Pledge, where a very small security is offered for a big debt, or simply the debt is offered on security of personal reputation of the debtor, so that in such a case, the security, if any, not satisfying the creditor, entitles him to fall back upon other properties of the debtor.

PART IV—LIMITATION AND PRESCRIPTION

23. The Bailment, or the Pledge, never changes its character, and so may be taken back any time; the former being destroyed only in cases detailed in Section 4, and the latter, in addition, by foreclosures and sales when it is not usufructuary; provided that, in case of all Pledges and Bailments, enjoyment of a property, continuously, openly and as of right, through three generations, or twenty years' such possession, puts an end to all rights, save when it is king's or woman's or anchorite's property, for or against which there is no question of adverse possession.

PART V—MODE OF EXECUTION OF PLEDGES AND BAILMENTS

24. The Pledge may be made by a written document, or in presence of witnesses, with or without delivery of possession, and where possession is delivered, it is no longer in control of the pledgor to make any further Pledge;

the Bailment must be made by delivery of possession, but it need not be made in presence of witnesses or by written declarations, though the Bailee should be a well-to-do and respectable person, and if the Bailor risks, with full knowledge of the circumstances, his good thing in a shaky quarter, he shall not complain to the king for his own folly.

25. The written Pledge is always preferred to oral, the possessory to non-possessory, and pledge by a document of specific import to a pledge by a document of general import.

26. There is no reversion or remaining estate after one of the several Pledges is accepted by the judge upon the same property, for preference of one means rejection of others.

PART VI—FINES, FORFEITURES AND CRIMINAL LIABILITIES
OF THE PLEDGEE AND THE BAILEE

27. The object of bailment shall be restored on single demand, being due, and so shall the object of the pledge—failing which, the former, being detained, entails 5 per cent. per mensem interest, and the latter does thenceforth cease to carry any interest for debt, excepting what is called “*प्रेतिदत्तम्*”.

28. If, on single demand, the object be not restored, and then the object perishes or is destroyed or is wasted or is squandered away or is wantonly used up, the full value of the thing shall be restored, together with mesne profits accruing from the time of the single demand, in addition to the levy of a fine, which equals the value of the object of Bailment.

29. In case of entire waste of the corpus, in a Bailment, the rule laid down as regards the restoration of the full value

with mesne profits shall apply only in case of deliberate and wanton seizure, but in case of wanton and culpable neglect only, no mesne profits need be paid, and in case of the Bailee not being aware of the destruction of the thing, which does not necessarily imply culpable neglect or deliberate seizure, only three-fourths of the value shall be paid, provided that in an extreme case where the Pledgee or the Bailee fabricates a false deed of pledge or bailment and foists it upon an innocent person or fraudulently puts off the Bailee or the Pledgee, by repeated refusals or denials or frivolous excuses, he shall get the penalty of theft 250 panas, and this liability extends to the heirs of the Bailee, provided further that, according to Cāṇakya, sales, pledges, etc., of the pledge and bail, contrary to stipulation, involves restoration of four times the thing, with a fifth part as penalty to the state, and penalty for failure to restore bailment and pledge, on single demand, entails penalty of 12 panas, in cases where it does not entail, according to the judge, the offence of theft, and that if, on single demand, the pledge or bailment, not being restored, perishes, for any cause whatsoever, the Pledgee and the Bailee shall be liable to pay to the king a penalty of twenty-four panas.

29A. The Pledgee or the Bailee must not offer back the pledge or bailment before time; if he does so, there may be a penalty for fraud, which may amount to double the thing pledged or bailed.

PART VII—REALISATION FROM DEFAULTING PLEDGEER OR BAILER

30. The method to realise must be first mild persuasion; then threatening litigation; then tempting with rich presents; and finally complaining to the king.

31. Specially in case of *Silpinyāsa*, and all secret deposits, the king shall employ espionage to recover the goods (Cāṇakya).

32. The evidence for the purpose of finding out the goods shall be procured by espionage among the people and kinsmen of the offender, and search shall be made for things, according to their marks of identification, in the houses and lands of the offender, for which free help must be taken of all local people, and all measures necessary for this are not too blameworthy, for the occasion to find out the truth, and specially in the case of denial of secret deposits, ordeals shall be employed.

PART VIII—MISCELLANEOUS

33. The following shall be regarded as forms of Bailment :—

(a) When dependents, such as women and slaves, fly away from masters, fearing imminent danger to their person or property, if any, and take shelter with a third person, this third person shall be considered as bailee or custodian of such dependents, and shall be answerable for any damage for loss of their service, person or property to the *patria potestas*—(called शरणगतः). (See p. 57, Ch. II.)

(b) Where purchased property remains in custody of the vendor, even after the sale is complete, the vendor shall be recognised as the bailee for the property to the purchaser (क्रयः). (See p. 58, Ch. II.)

34. The *Yācitaka* must be given up according to time and place stipulated, failing which on demand, violence may be used upon him and the thing may be forcibly seized.

35. The artisans are not to blame, if the deposit perishes, in spite of their offer back and not being taken after the purpose, for which deposit was taken, is completed.

36. The artisans are not to blame, if natural wear and tear, in course of the desired operation upon the deposit, damages it, or it completely perishes.

37. The natural wear and tear, in absence of special evidence to the contrary, shall be appraised as follows :—

(a) in case of washermen bailees, eighth part of the value deteriorates when once the garment is washed; one-fourth, for two washes; one-third, for three washes; and one-half for four washes;

(b) in case of gold molten in fire, no value diminishes, but two palas out of hundred of silver, eight per cent. of lead, and ten per cent. of iron;

(c) in case of fibres, ten palas out of hundred grows, by spinning wool and cotton, and in case of such fibres of medium thickness, five per cent. grows, and in case of very fine size, only 3 per cent.

38. Washermen deposites of garments shall be fined three panas, if they wear clothes of very valuable texture, and ten panas, if they sell it, hire it for profit or lend it for gratuitous use.

39. The weaver shall weave out the yarn in stipulated time, and then offering back the yarn and it not being accepted, he is not to blame if the article perishes; but he is liable if the yarn is damaged, pending the weaving work.

40. The *Vaiyāprtyavikretr* must render accounts for his receipts and disbursements and must strictly follow instructions given by the bailor—failing which he is answerable for the loss.

41. The cowherds entrusted with cattle, and the agricultural labourer entrusted with tilling fields of his master, may be chastised with rod, if they do not take proper care of their charge.

42. The lessee of another's culturable field must make good to the owner loss of the profits caused by his negligence, on the basis of which the land was let out, and the public custodians of land revenue shall punish those who allow their culturable land to lie fallow and waste.

43. The cattle keeper must not allow the cattle to stray into the field of another, or into dangerous spots, where they may perish, in which case full value must be restored to the owner.

44. The trespassing cattle may be seized and confined in the fold without food, but not beaten or otherwise too much molested.

45. The forest keepers shall only restore the cattle straying into the forest for once, but when there is a second trespass, cattle shall be restored only after a little confinement but more than a second trespass shall completely exonerate the forest keeper from the duty of such restoring.
